

ATTACHMENT D

EXPERT REPORT OF CHRISTIAN TREGILLIS, CPA, ABV, CFF, CLP

IN THE MATTER OF:

DONALD R. CAMERON, ET AL.

v.

APPLE INC.

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION**

CIVIL ACTION NO. 4:19-CV-03074-YGR

JUNE 1, 2021

HIGHLY CONFIDENTIAL – ATTORNEYS' EYES ONLY



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1. INTRODUCTION

1. As a Partner at Hemming Morse, LLP (“Hemming”), I have been engaged by Hagens Berman Sobol Shapiro LLP (“Hagens Berman” or “Counsel”), in its role as counsel to Donald R. Cameron and Pure Sweat Basketball, Inc. (the “Named Plaintiffs”), on behalf of themselves and all others similarly situated (collectively, “Plaintiffs”), to analyze accounting, financial, and economic issues related to claims by Plaintiffs against Apple Inc. (“Apple” or “Defendant”).¹ Generally, I understand that Plaintiffs have brought claims under the Sherman Act and Cal. Bus. & Prof. Code §§ 17200 et seq. related to Apple’s conduct regarding its Apple App Store (“App Store”).²

2. In particular, I understand that Plaintiffs’ claims relate to Apple’s requirement, among others, that iOS device owners only purchase apps and in-app products through the App Store, prohibition for other app stores to be allowed on devices, and mandate that iOS Developers “who sell through the App Store cannot sell their apps through any other means that are meant to reach iOS device consumers.”³ Specifically, I have been engaged by Counsel to analyze financial information available in this matter to calculate the App Store’s operating profit and operating margin percentage. I have also been engaged to similarly analyze publicly available financial information to determine the operating margin percentage for businesses of certain internet marketplace platforms.

3. The purpose of this report is to express my opinions and the bases of these opinions in accordance with my assignment. As such, I do not express any opinion as to liability, although I do not foreclose that the Court or the trier of fact may view the issues to which I testify to be instructive to the question of liability.

4. My work on this matter and that of Hemming has been performed under professional standards promulgated by the American Institute of Certified Public Accountants (“AICPA”), including the Statement on Standards for Forensic Services and the Code of Professional Conduct. Hemming is paid \$510 per hour for my work and \$100-\$425 per hour for the work of my support staff. Hemming’s compensation is not dependent on the outcome of this matter.

¹ Plaintiffs’ Consolidated Class Action Complaint For Violations of the Sherman Act and California Unfair Competition Law, September 30, 2019 (“Consolidated Complaint”).

² Consolidated Complaint, pp. 39-46.

³ Consolidated Complaint, pp. 39-40.

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5. Section 2 and its subsection, below, contain a discussion of background and facts relevant to my opinions, which are detailed in Section 3 and its subsections. Viewed in totality, these sections describe the opinions to which I expect to testify at trial, as well as the bases for my opinions. Appendix A contains a listing of the documents and information relied upon to date in my analysis. Appendix B is a summary of my qualifications, including my publications and public teachings of the past 10 years. The matters in which I have testified as an expert within the past four years are included in Appendix C. Appendix D contains schedules and graphics prepared in the course of my analysis.

6. My report is based on the information I have received to date; I may revise or expand upon this report based on the receipt of additional documents or information. I also expect to consider and potentially respond to any criticisms of my analysis, offered by Defendant, Defendant's counsel, or any of Defendant's experts.

7. If called to testify in this matter, I may at the request of Hagens Berman prepare demonstrative exhibits to reflect or summarize the information I describe in this report, as permitted by the Court's scheduling orders. I may also refer to documents and information on which I have relied, as disclosed in Appendix A and throughout this report.

1.1 Summary of Opinions

8. Based on the information currently available I have come to the following high-level opinions, which I detail in the following sections of this report, with each of the summaries below corresponding to a report subsection within Section 3.

- 3.1 Gross profits is net revenue less cost of goods sold; operating income is gross profits less operating expenses; operating margin is operating profit over net revenue, and fully burdened profits are operating profits with all operating expenses included in the calculation.
- 3.2 Apple's App Store operating margins have been in the range of 69.6% - 77.8% for FY 2016 - FY 2020, according to Apple documents that appear to have been generated and used in the normal course of business, or 68.9% - 76.6%, taking into account costs Apple claims to have not been allocated.
- 3.3 The testimony of Mark Rollins regarding other Apple documents containing App Store Profit & Loss information confirms Apple's calculations for the App Store operating margins reflected in its Products & Services Profitability Report.
- 3.4 Apple App Store contribution margin data confirm Apple's calculations for the App Store operating margins reflected in its Products & Services Profitability Report.
- 3.5 Other marketplace companies have earned much lower operating margins than has Apple on the App Store.

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2. BACKGROUND

9. The discussion below describes background information relevant to my analysis. While I do not plan to offer any legal opinions or to be the primary source of these background facts, I include this discussion as a predicate for my analysis and expert opinions, which are contained within these sections and subsections as well. For example, Section 2.1 contains high-level background information regarding Apple, its business units, and the App Store. I expect that individuals involved with and knowledgeable of Apple's business and activities will testify about the nature of such, prior to my testimony, such that I may reference that testimony and related documents, but not as the initial and primary source of the background information to which I refer.

2.1 Apple, Its Business Units, and the App Store

10. Apple was founded on April 1, 1976, as Apple Computers, Inc. by Steve Jobs and Steve Wozniak, with a goal of making computers user-friendly and small enough to have them in users' homes and offices.⁴ Mr. Wozniak left the company in 1983, and Mr. Jobs hired PepsiCo's John Sculley to replace Mr. Wozniak.⁵ After conflict with Mr. Sculley, Mr. Jobs left Apple in 1985 and started NeXT Software,⁶ as well as purchasing a majority share of animation company Pixar Inc. the following year.⁷ Apple's market share in the computer market continued to rise through 1990, but then suffered.⁸ In 1997 Apple bought NeXT Software and brought Mr. Jobs back to serve as interim CEO, and later CEO.⁹

11. In the years that followed, the company expanded and diversified, revamping its computers with the introduction of a laptop (the iBook), an mp3 player (the iPod), and a media software player (iTunes), with music-related products and services becoming more profitable than computers.¹⁰ In early 2007, having just passed 2 billion song sales, at the Macworld event, Mr. Jobs introduced two new products, Apple TV and the

⁴ <https://www.loc.gov/rr/business/businesshistory/April/apple.html>. Accessed May 28, 2021. Apple Inc. Form 10-K (for period ended September 26, 2020) claims that the company was founded in 1977. Apple Inc. Form 10-K (for period ended September 26, 2020), p. 1.

⁵ <https://www.loc.gov/rr/business/businesshistory/April/apple.html>. Accessed May 28, 2021.

⁶ <https://www.loc.gov/rr/business/businesshistory/April/apple.html>. Accessed May 28, 2021.

⁷ <http://alvyray.com/Pixar/default.htm>. Accessed May 28, 2021.

⁸ <https://www.loc.gov/rr/business/businesshistory/April/apple.html>. Accessed May 28, 2021.

⁹ <https://www.loc.gov/rr/business/businesshistory/April/apple.html>. Accessed May 28, 2021.

¹⁰ <https://www.loc.gov/rr/business/businesshistory/April/apple.html>. Accessed May 28, 2021.



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iPhone, stating “We’re going to make some history together today,” and shortened the company name from Apple Computers, Inc., to Apple Inc.¹¹



12. In the years since, Apple has added products and services, and as of the end of 2020 operated in the following business units:¹²

- Products
 - iPhone (smartphones)
 - Mac (computers)
 - iPad (tablets)
 - Wearables, Home and Accessories (including headphones, Apple TV, watches, and home products)
- Services
 - Advertising
 - AppleCare (warranty and related)
 - Cloud Services (data storage and availability across devices)
 - Digital Content (the App Store and subscription-based services)
 - Payment Services (including Apple Card and Apple Pay)

¹¹ <https://www.youtube.com/watch?v=x3sg8b5iXO4>. Accessed May 28, 2021.

<https://appleinsider.com/articles/19/01/09/when-apple-introduced-the-iphone-on-jan-9-2007-it-was-the-ultimate-computer-for-the-rest-of-us>. Accessed May 28, 2021.

¹² Apple Inc. Form 10-K (for period ended September 26, 2020), pp. 1-2.

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13. While it operates these business units, the company reports its financial performance publicly in five business segments.¹³ The top two business segments, in terms of revenue, are iPhone and Services, as shown in the excerpt from Apple's fiscal year ended in September 2020 ("FY 2020").¹⁴

Products and Services Performance

The following table shows net sales by category for 2020, 2019 and 2018 (dollars in millions):

| | 2020 | Change | 2019 | Change | 2018 |
|---|-------------------|--------|-------------------|--------|-------------------|
| Net sales by category: | | | | | |
| iPhone ⁽¹⁾ | \$ 137,781 | (3)% | \$ 142,381 | (14)% | \$ 164,888 |
| Mac ⁽¹⁾ | 28,622 | 11 % | 25,740 | 2 % | 25,198 |
| iPad ⁽¹⁾ | 23,724 | 11 % | 21,280 | 16 % | 18,380 |
| Wearables, Home and Accessories ⁽¹⁾⁽²⁾ | 30,620 | 25 % | 24,482 | 41 % | 17,381 |
| Services ⁽³⁾ | 53,768 | 16 % | 46,291 | 16 % | 39,748 |
| Total net sales | <u>\$ 274,515</u> | 6 % | <u>\$ 260,174</u> | (2)% | <u>\$ 265,595</u> |

(1) Products net sales include amortization of the deferred value of unspecified software upgrade rights, which are bundled in the sales price of the respective product.

(2) Wearables, Home and Accessories net sales include sales of AirPods, Apple TV, Apple Watch, Beats products, HomePod, iPod touch and Apple-branded and third-party accessories.

(3) Services net sales include sales from the Company's advertising, AppleCare, digital content and other services. Services net sales also include amortization of the deferred value of Maps, Siri, and free iCloud® storage and Apple TV+ services, which are bundled in the sales price of certain products.

14. Apple attributed its 16% increase in revenue in FY 2020 in the Services segment to growth in the App Store, advertising, and cloud services business units.¹⁵ Its trailing-12-month revenue as of the end of 2020 made Apple the fifth largest company in the world, by revenue,¹⁶ and the largest company in the world in terms of market capitalization, at \$2.1 trillion as of May 30, 2021.¹⁷

¹³ Apple Inc. Form 10-K (for period ended September 26, 2020), p. 21.

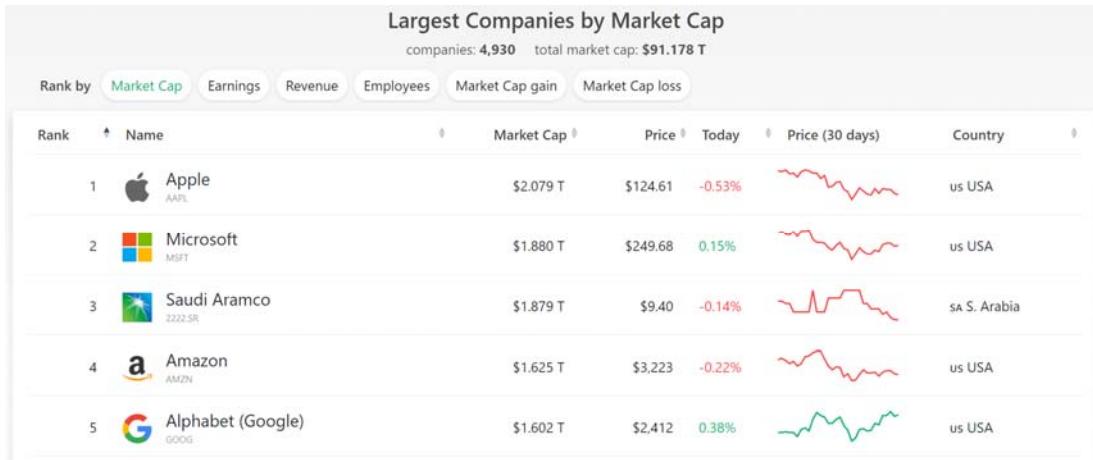
¹⁴ Apple Inc. Form 10-K (for period ended September 26, 2020), p. 1, 21. Apple ends its fiscal year in late September each year.

¹⁵ Apple Inc. Form 10-K (for period ended September 26, 2020), p. 21.

¹⁶ <https://www.investopedia.com/articles/active-trading/111115/why-all-worlds-top-10-companies-are-american.asp>. Accessed May 30, 2021.

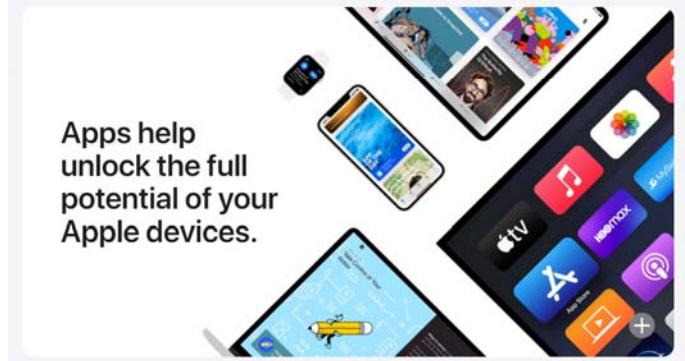
¹⁷ <https://companiesmarketcap.com/>. Accessed May 30, 2021.

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15. The App Store is an online marketplace at which users can purchase and download applications for use on devices, with 1.8 million applications worldwide and 175 storefronts in over 40 languages, with more than 4 billion apps distributed each day.¹⁸

**Hardware and software.
Powering amazing experiences
together by design.**



3. ANALYSIS AND OPINIONS

3.1 Gross profits is net revenue less cost of goods sold; operating income is gross profits less operating expenses; operating margin is operating profit over net revenue, and fully burdened profits are operating profits with all operating expenses included in the calculation.

16. Accounting is a system of rules that define how information about the financial performance and condition of an entity is presented, such that readers can understand what the presented information

¹⁸ <https://www.apple.com/app-store/>. Accessed May 28, 2021.

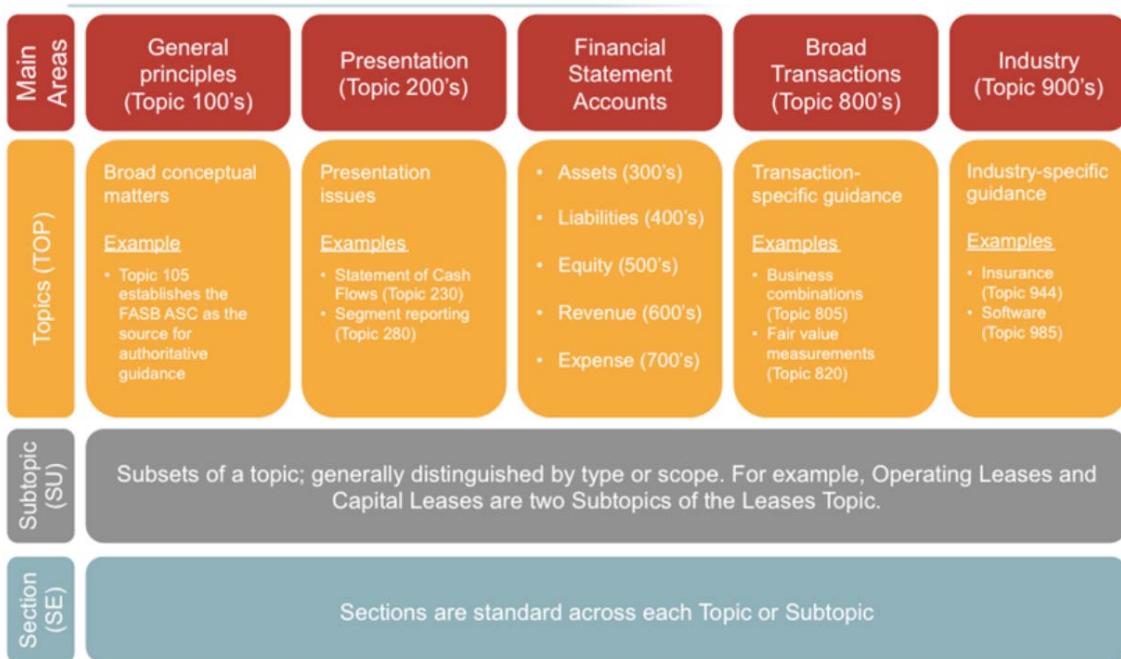
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represents. Without rules that define what reported information means, the information presented would be of little value to readers and users.

17. For example, in the US, publicly traded companies are required to report their financial performance in financial statements prepared in accordance with Generally Accepted Accounting Principles (“GAAP”), which is a set of rules, laid out in the Accounting Standards Codification, that define what information is to be presented and what that information is to represent.¹⁹

Organization of the FASB Codification (ASC)



18. Other countries have their own rules, which typically share common elements with US GAAP, and many countries have accounting rules that follow International Financial Reporting Standards (“IFRS”), which mirror in many ways US GAAP.²⁰

19. An income statement (also referred to as a “Statement of Operations”), similar to a profit and loss (“P&L”) statement, summarizes an entity’s or unit’s revenues, less expenses, to arrive at profit, during a

¹⁹ <https://asc.fasb.org/>. Accessed May 28, 2021. See also <https://www.gaapdynamics.com/insights/blog/2016/03/29/timesaving-tricks-for-accounting-principles-and-the-fasb-codification/>. Accessed May 28, 2021.

²⁰ <https://www.ifrs.org/>. Accessed May 28, 2021.

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particular period (e.g., for a month or year). Below is Apple's income statement for FY 2018 - FY 2020, from the company's publicly filed Form 10-K for FY 2020.²¹

| | Apple Inc. | | |
|---|---|-----------------------|-----------------------|
| | CONSOLIDATED STATEMENTS OF OPERATIONS | | |
| | (In millions, except number of shares which are reflected in thousands and per share amounts) | | |
| | September 26, 2020 | September 28, 2019 | September 29, 2018 |
| Net sales: | | | |
| Products | \$ 220,747 | \$ 213,883 | \$ 225,847 |
| Services | 53,768 | 46,291 | 39,748 |
| Total net sales | <u>274,515</u> | <u>260,174</u> | <u>265,595</u> |
| Cost of sales: | | | |
| Products | 151,286 | 144,996 | 148,164 |
| Services | 18,273 | 16,786 | 15,592 |
| Total cost of sales | <u>169,559</u> | <u>161,782</u> | <u>163,756</u> |
| Gross margin | <u>104,956</u> | <u>98,392</u> | <u>101,839</u> |
| Operating expenses: | | | |
| Research and development | 18,752 | 16,217 | 14,236 |
| Selling, general and administrative | 19,916 | 18,245 | 16,705 |
| Total operating expenses | <u>38,668</u> | <u>34,462</u> | <u>30,941</u> |
| Operating income | 66,288 | 63,930 | 70,898 |
| Other income/(expense), net | 803 | 1,807 | 2,005 |
| Income before provision for income taxes | <u>67,091</u> | <u>65,737</u> | <u>72,903</u> |
| Provision for income taxes | 9,680 | 10,481 | 13,372 |
| Net income | <u>\$ 57,411</u> | <u>\$ 55,256</u> | <u>\$ 59,531</u> |
| Earnings per share: | | | |
| Basic | \$ 3.31 | \$ 2.99 | \$ 3.00 |
| Diluted | \$ 3.28 | \$ 2.97 | \$ 2.98 |
| Shares used in computing earnings per share: | | | |
| Basic | 17,352,119 | 18,471,336 | 19,821,510 |
| Diluted | 17,528,214 | 18,595,651 | 20,000,435 |

See accompanying Notes to Consolidated Financial Statements.

20. As seen above, the income statement starts by reporting top-line revenue (which is referred to by Apple in its income statement as "Total net sales") generated by the reporting entity (which revenue may have deductions such as an allowance for warranties and returns, to arrive at net revenues), and subtracting from revenues "cost of goods sold" (referred to by Apple in its income statement as "Total cost of sales"), to arrive at gross profit (referred to by Apple in its income statement as "Gross margin"). Cost of goods sold refers to

²¹ Apple Inc. Form 10-K (for period ended September 26, 2020), p. 31.

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those costs specifically associated with the revenues at issue (e.g., for a product, cost of goods sold are typically the costs to manufacture or acquire the product, whereas for a service cost of goods sold captures those costs directly associated with the provision of that service).²²

21. The next step in the income statement (or P&L) is to deduct from gross profits operating expenses, as seen in the Apple income statement shown above, to arrive at operating income. Operating expenses include costs incurred in the operation of the business, but which costs typically are not directly attributable to the specific products or services sold. For example, advertising for a group of products would be an operating expense that could be attributed to those products, but would not be a cost of goods sold. Research and development (“R&D”), even if on a particular product or product group, would also show up in operating expenses. Other operating expenses include general and administrative (“G&A”) expenses, such as insurance, home office rent, technology support systems, and management compensation.²³

22. Operating income, also known as income from operations, is an accounting figure that measures the amount of profit realized from a business’s operations, after deducting cost of goods sold and operating expenses. Operating income takes a company’s gross profit, which is equivalent to total revenue minus cost of goods sold, and subtracts all operating expenses.²⁴ Analyzing operating income is helpful because it does not include taxes and other one-off items that might skew profit or net margin. A company that is generating an increasing amount of operating income is seen as favorable because it means that the company’s management is generally generating more revenue, while controlling expenses, production costs, and overhead.

²² SEC Investor Publications, “Beginner’s Guide to Financial Statements,” published February 5, 2007, <https://www.sec.gov/reportspubs/investor-publications/investorpubsbegfinstmtguidehtm.html>. Accessed May 26, 2021.

²³ SEC Investor Publications, “Beginner’s Guide to Financial Statements,” published February 5, 2007, <https://www.sec.gov/reportspubs/investor-publications/investorpubsbegfinstmtguidehtm.html>. Accessed May 26, 2021.

²⁴ SEC Investor Publications, “Beginner’s Guide to Financial Statements,” published February 5, 2007, <https://www.sec.gov/reportspubs/investor-publications/investorpubsbegfinstmtguidehtm.html>. Accessed May 26, 2021.

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23. Adjustments for items such as taxes, interest, and extraordinary items are made to operating income, to arrive at what some call the “bottom line,” net income.²⁵ An income statement under US GAAP has specific requirements, including how each of the required elements are to be calculated.²⁶

24. A P&L is not a financial statement required to be reported under US GAAP, as it is typically used for internal company financial management, though a P&L often has elements in common with an income statement (e.g., revenues, cost of goods sold, gross profit, operating expenses, and operating profits), given that it is a report that summarizes “profits” and “losses” of the business or business unit for which the P&L was prepared, for the specified time (e.g., a P&L for Apple’s iPhone business in December 2020).

25. Operating margin is generally reported and referred to as a percentage, measuring how much operating profit a company makes as a percentage of sales, after paying for costs of production, such as wages and raw materials, but before paying interest or taxes. Operating margin represents how effectively a company is able to generate profit from its core operations. Operating margin is calculated by dividing a company’s operating income by its net sales.²⁷ Higher ratios illustrate the company is more efficient in its operations and is good at turning sales into profits, while controlling costs.²⁸

26. Business segment reporting breaks out a company’s financial data by company divisions, subsidiaries, or other kinds of business segments. In an annual report, business segment reporting provides an important insight into an entity’s performance. Management uses business segment reporting to evaluate financial information for each business division broken out, to assess its financial performance. Apple reports sales information about its segments, such as in its Form-10K.²⁹ Segment reporting can help a company’s shareholders better understand the entity’s operations and adds a detailed perspective that is important to understand the company and assist in decision-making.³⁰ For example, by analyzing a business with two

²⁵ SEC Investor Publications, “Beginner’s Guide to Financial Statements,” published February 5, 2007, <https://www.sec.gov/reportspubs/investor-publications/investorpubsbegfinstmtguidehtm.html>. Accessed May 26, 2021. FASB, Accounting Standards Update No. 2015-01, January 2015, *Income Statement – Extraordinary and Unusual Items (Subtopic 225-20)*.

²⁶ ASC 220-10 – Income Statement-Reporting Comprehensive Income. See also Reg S-X, 17 CFR Part 210.5-03. See also Financial Accounting Standards Board, “About GAAP,” <https://www.accountingfoundation.org/jsp/Foundation/Page/FAFBridgePage&cid=1176164538898>. Accessed May 27, 2021.

²⁷ SEC Investor Publications, “Beginner’s Guide to Financial Statements,” published February 5, 2007, <https://www.sec.gov/reportspubs/investor-publications/investorpubsbegfinstmtguidehtm.html>. Accessed May 26, 2021.

²⁸ Brinig, Brian P., *Finance & Accounting for Lawyers* (2016; Business Valuation Resources, LLC), p. 117.

²⁹ Apple Inc. Form 10-K (for period ended September 26, 2020), pp. 21, 22, 39.

³⁰ EY “Financial Reporting Developments, A Comprehensive Guide – Segment Reporting – ASC 280,” revised April 2020.

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segments, it is possible to see differences in the revenue growth of each segment, which helps managers and other readers of financial reports to better identify trends and issues in the entity or business unit; this would often not be possible if there was no breakout of the segments to see those financial metrics specific to the segment.

27. There are rules under US GAAP about what constitutes a reportable segment, to be broken out in financial statements prepared under US GAAP. A publicly-traded company is required to report each material operating segment, operating segments exceeding 10% of revenues, segment operating profit or loss, or segment assets.³¹ A public entity is required to report separate operating segments until the external revenue attributable to reportable segments is at least 75% of total consolidated revenue.³²

28. In order to effectively evaluate business segment reporting, it is often important that the reporting includes “fully burdened” costs, to provide a complete picture of the financial performance of the business or business unit that is represented in a report such as a P&L. Fully burdened costs are the actual cost of work performed, including, without limitation, direct labor, direct material, and other direct items and any indirect and overhead costs and expenses allocable to such work.³³

fully burdened. Fully burdened costs include all direct and indirect costs. Direct costs include salaries (including fringe), equipment/maintenance reserve, and consumables. Indirect costs include but are not limited to administrative support and operating costs for facilities.

29. For example, a P&L that stopped at the gross profit line would not show “fully burdened” profits, since operating expenses were not included in the report and deducted to arrive at the profits. Apple uses the term “fully burdened” to describe a P&L statement that includes all costs associated with a business segment.³⁴ This is a definition that mirrors that of accountants and financial analysts generally, ensuring that all attributable operating expenses have been included and recognized.

³¹ EY “Financial Reporting Developments, A Comprehensive Guide – Segment Reporting – ASC 280,” revised April 2020, section 1.4.

³² EY “Financial Reporting Developments, A Comprehensive Guide – Segment Reporting – ASC 280,” revised April 2020, section 1.4.

³³ University of Texas at Austin Accounting and Financial Management – Glossary of Business and Financial Terms (<https://afm.utexas.edu/hbp/glossary#f>. Accessed May 30, 2021).

³⁴ Deposition of Mark Rollins, February 11, 2021, pp. 59, 76, 82, 83.



3.2 Apple's App Store operating margins have been in the range of 69.6% - 77.8% for FY 2016 - FY 2020, according to Apple documents that appear to have been generated and used in the normal course of business, or 68.9% - 76.6%, taking into account costs Apple claims to have not been allocated.

30. Apple internal financial documents produced in this matter contain company information about the financial performance of Apple's business units and segments. As described above, benefits resulting from the preparation and availability of financial information about business units and segments include the ability to see how a business is performing relative to others, such as its revenue, profits (revenue less costs), and trends over time. Without information on different business units and segments, it would be difficult to make decisions about which business units should be kept, built out further, sold, or closed down. Apple has in its history thrived with its deliberate focus on expansion into and growth in different business units, given the benefit of information about how those units have performed.

31. For example, as described above, Apple reports five business segments, consistent with the successful expansion into different product and service lines (e.g., from computers into a technology, entertainment, and services company).³⁵ Reporting and analysis of these different business units and segments has been in five business segments, since 2018.³⁶

Apple statistics

Since 2018, Apple has split its business into five segments: iPhone, iPad, Mac, Services and Wearable, Home and Accessories. The iPhone generates the majority of Apple's revenue, but Services and Wearable, Home and Accessories have both seen increased priority in the past few years, as Apple tries to find new ways to prevent revenue stagnation.

32. One financial document prepared in the normal course of Apple's business was the "Products & Services Profitability Report Based on Aug'19 LRF" report (the "Products & Services Profitability Report"), prepared by Apple's Corporate FP&A group,³⁷ dated "September 2019."³⁸ This document is a report that was sent to Apple's CEO, Tim Cook, on October 1, 2019, as a follow-up to a "Profitability meeting" that apparently took place on September 25, 2019.³⁹

³⁵ <https://www.businessofapps.com/data/apple-statistics/>. Accessed May 28, 2021.

³⁶ <https://www.businessofapps.com/data/apple-statistics/>. Accessed May 28, 2021.

³⁷ FP&A stands for Financial Planning and Analysis.

³⁸ APL-EG_08926412 - APL-EG_08926433 at '6412.

³⁹ APL-EG_08926407 - APL-EG_08926408; APL-EG_08926412 - APL-EG_08926433 at '6407. See also APL-EG_10015140 - APL-EG_10015251 at '5140.

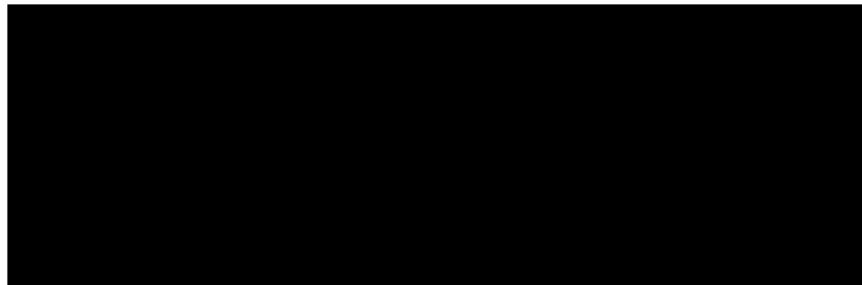
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Subject: Profitability - Follow ups
From: "Saori Casey" <[REDACTED]>
Received(Date): Tue, 01 Oct 2019 15:20:05 +0000
To: "Tim Cook" <[REDACTED]>, Luca Maestri" <[REDACTED]>
Cc: "Ai Ling Loo" <[REDACTED]>, "Kevan Parekh"
<[REDACTED]>, "Larry McDevitt" <[REDACTED]>
Attachment: PastedGraphic-10.pdf
Attachment: PastedGraphic-11.pdf
Attachment: PastedGraphic-8.tiff
Attachment: Aug'19 LRF Profitability (Tim 9-25 mtg).pdf
Date: Tue, 01 Oct 2019 15:20:05 +0000

Hi Tim, Luca,

Please find below the 3 follow-up items from the Profitability meeting.



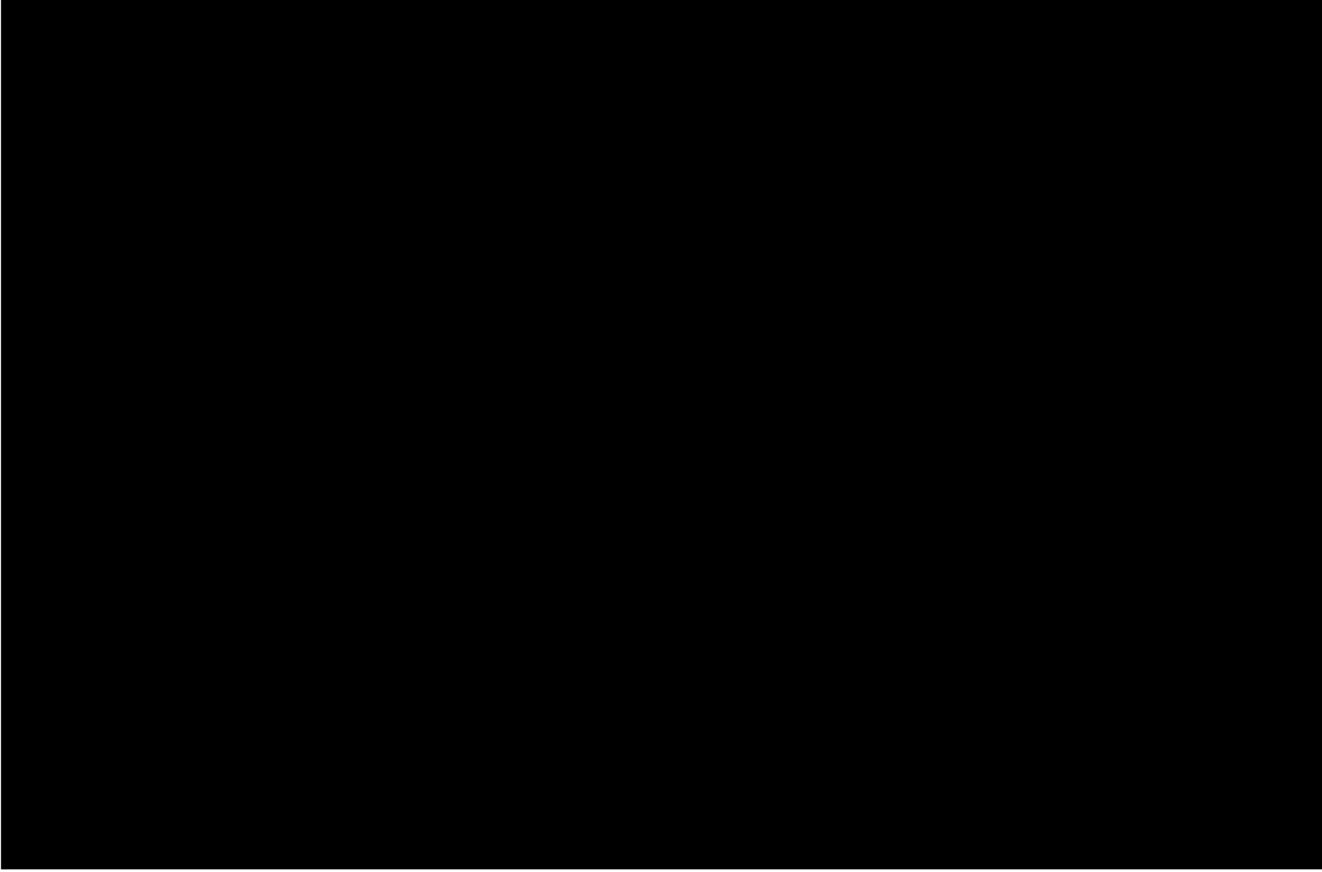
Any other questions, please let us know.

33. The Products & Services Profitability Report shows Apple's calculated several financial metrics for different business units. [REDACTED]

[REDACTED] 40 [REDACTED]

⁴⁰ APL-EG_08926412 - APL-EG_08926433 at '6414.

FY20 Products & Services Summary

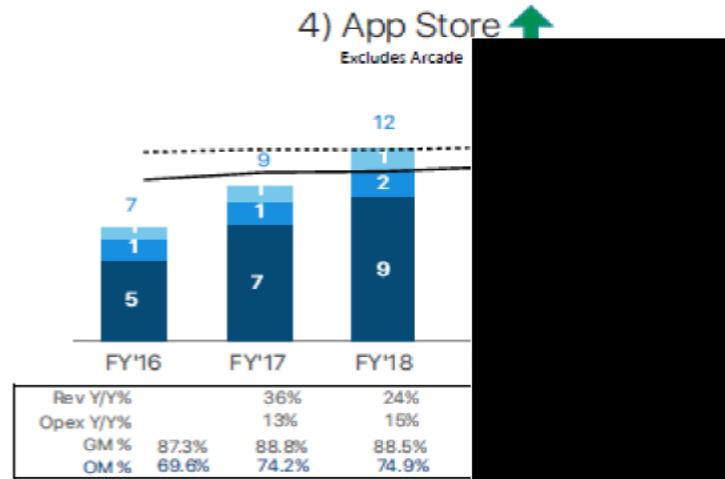


34. This report shows several financial metrics calculated by Apple for the App Store, among 15 Services business units, with four metrics summarized in a graphic (shown below).⁴¹ The graph and figures show Apple's calculated revenue and operating expense change, year-to-year, as well as actual gross margin and operating margin for the App Store for the FY 2016 - FY 2018, with a forecast for the FY 2019 and FY 2020.⁴²

⁴¹ APL-EG_08926412 - APL-EG_089264133 at '6424.

⁴² It appears that 2019 was based on 10 or 11 months of actual, with 1 or 2 months of forecast, as the document is titled August 2019, dated September 2019, and as Apple has a September fiscal year end. A comparison of the 2019 forecast figures to Apple's FY 2019 Form 10-K demonstrates that the 2019 forecast was very accurate. According to Apple's Mark Rollins, 2019F means a 2019 forecast. Deposition of Mark Rollins, February 11, 2021, p. 238.

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35. As seen above, by Apple's own measure, the App Store's operating margin was between 69.6% and 74.9% in FY 2016 - FY 2018 and was forecast to be at [REDACTED] in FY 2019 and FY 2020.

36. The data from the Product & Services Profitability Report tie out to the financial information reported in Apple's GAAP financial reporting, from Apple's Form 10-K report, as summarized in the schedule below.⁴³

Comparison of Total Apple Profit Metrics From Products & Services Profitability Report to Apple Form 10-K

| Total Apple P&L Products & Services Profitability Report [1] | | | | | Apple Form 10-K [2] | | | | | | |
|--|---------|---------|---------|---------|---------------------|------------------|----------|----------|----------|----------|----------|
| (\$ in bill.) | FY 2016 | FY 2017 | FY 2018 | FY 2019 | FY 2020 | (\$ in bill.) | FY 2016 | FY 2017 | FY 2018 | FY 2019 | FY 2020 |
| Revenue | \$216 | \$229 | \$266 | | | Revenue | \$215.64 | \$229.23 | \$265.60 | \$260.17 | \$274.52 |
| COGS | \$131 | \$141 | \$164 | | | COGS | \$131.38 | \$141.05 | \$163.76 | \$161.78 | \$169.56 |
| Gross Profit | \$85 | \$88 | \$102 | | | Gross Profit | \$84.26 | \$88.19 | \$101.84 | \$98.39 | \$104.96 |
| Opex | \$24 | \$27 | \$31 | | | Opex | \$24.24 | \$26.84 | \$30.94 | \$34.46 | \$38.67 |
| Operating Profit | \$61 | \$61 | \$71 | | | Operating Profit | \$60.02 | \$61.34 | \$70.90 | \$63.93 | \$66.29 |
| Operating Margin | 27.8% | 26.8% | 26.7% | | | Operating Margin | 27.8% | 26.8% | 26.7% | 24.6% | 24.1% |

Notes and Sources:

[1] APL-EG_08926412 - APL-EG_08926433 at '6423.

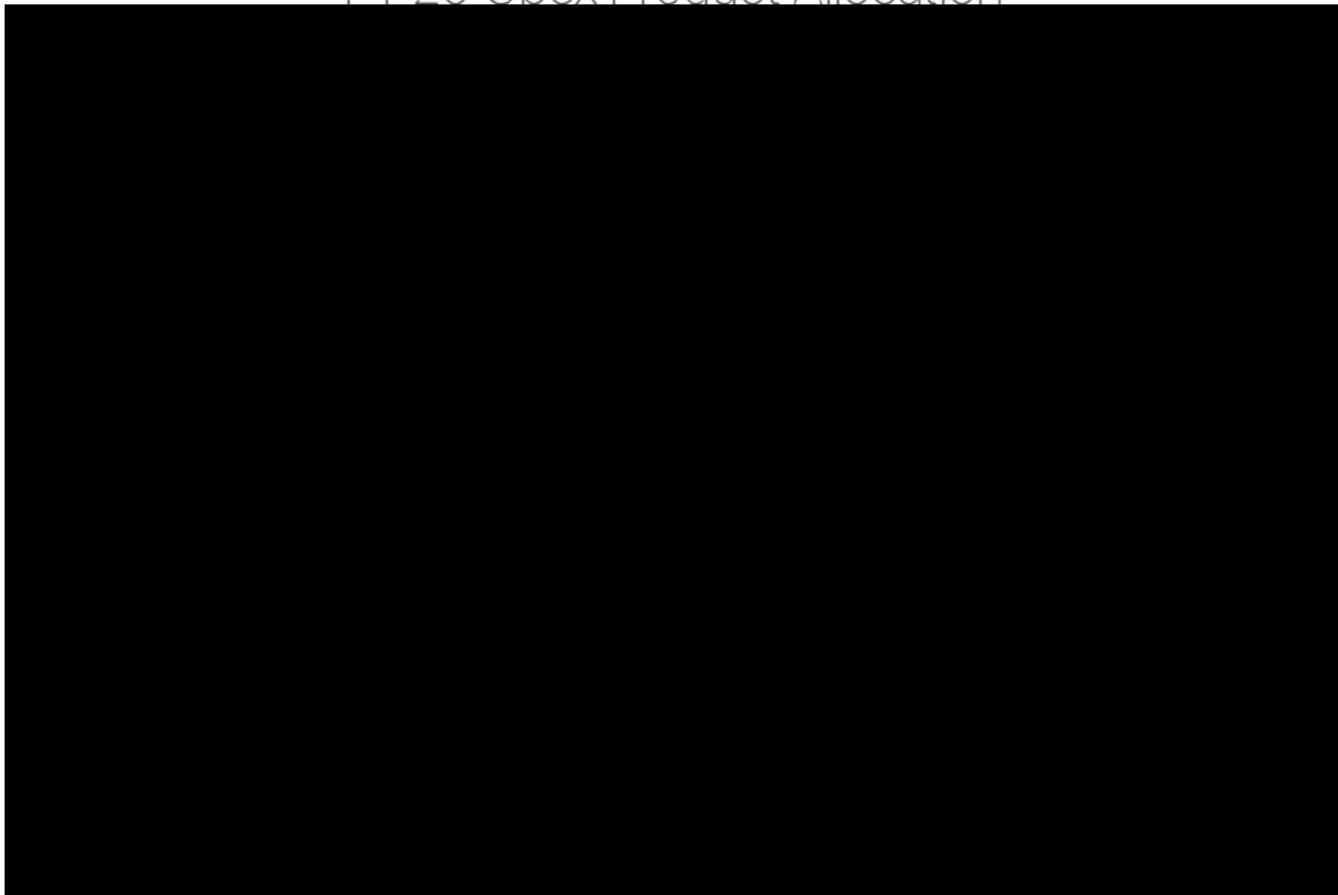
[2] The Company's fiscal year is the 52- or 53-week period that ends on the last Saturday of September, Apple Form 10-K (for the period ended September 26, 2020), pp. 19, 31, 36 and Apple Form 10-K (for the period ended September 29, 2018), p. 38.

37. As described above, to make a calculation of the operating profit, in dollars, and operating margin, as a percentage of revenue, requires that revenue be reduced by cost of goods sold, to arrive at gross profit, and then to further deduct operating expenses, to arrive at operating profit. To make this calculation for business units that have shared expenses requires the allocation of shared expenses. [REDACTED]

43 Schedule 1



FY'20 Opex Product Allocation



38. These two graphics depict [REDACTED]



39. As seen in the graphic referenced above, Apple breaks down the Group Function total operating expense and allocates the amount of the expenses using a variety of methods for each cost center (e.g., G&A or R&D), based the cost either being a “direct,” “shared,” or “allocated” expense. For a “direct” expense, that

⁴⁴ APL-EG_08926412 - APL-EG_089264133 at '6430 and '6431.

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appears to be an expense that can be directly attributed to a unit that uses that support function. [REDACTED]

[REDACTED]
[REDACTED] as implemented by the Apple personnel whose job it is to make those calculations in the normal course of business: the FP&A Group.⁴⁵

[REDACTED]

40. As a result, it is not clear if Method 2 for Allocation Opex [REDACTED]

[REDACTED]
[REDACTED]" For purposes of my analysis, this is not a meaningful distinction. It is clear is that there is a method, designed and implemented by individuals tasked with that assignment, to allocate operating expenses to the products and services that benefited from those operating expenses, and the resultant calculations were used by Apple for business purposes in the normal course of business.

41. Common methods for the allocation of operating expenses include a percent-of-revenue method. This method attributes operating expenses (e.g., the costs of the systems and personnel in the Corporate FP&A group) based on the portion of the total revenue that was from the particular group. For example, if a business unit represents 25% of the total revenue, then that business unit would bear 25% of the shared expense allocated using that method. Other methods of allocation can be based on use of a direct or shared cost. For example, if all of the research and development was for one business unit, it may be appropriate to directly

⁴⁵ APL-EG_08926412 - APL-EG_089264133 at '6430, showing only a portion of that graphic, with my "To Products and Services" text added.

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allocate all of the research and development cost to that unit, or all of a *certain cost* within research and development (e.g., the purchase of a machine or service used for only one purpose). The same might be said for advertising, if all of the advertising spend was for one business unit. Or if there was a machine purchased and it was used for research and development of only two products, it might be attributed or assigned using a shared method.

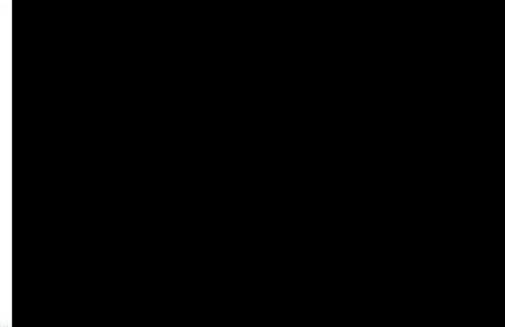
42. In sum, it appears that the methods used by Apple are consistent with cost accounting practices generally used.

43. I understand that Mr. Cook testified in *Epic Games, Inc. v. Apple Inc.* that he is unaware of the methodological detail of Method 2 for Allocation Opex, but has acknowledged that it is used by Apple.⁴⁶ For example, Mr. Cook testified about a document titled “FY20 LRF - Dec’19,” which included App Store profitability measures also employing Method 2 for Allocation Opex.⁴⁷ This document’s title page indicated business purposes for which the included information was to be used, as shown below:⁴⁸



Corporate FP&A

12/18/19



Corporate FP&A

Apple Confidential – Need To Know

[red box added]

44. I further understand that there exists trial testimony from Mr. Cook that characterizes the data in the Products & Services Profitability Report to be “not fully burdened” (i.e., it does not reflect a full allocation of all

⁴⁶ Trial transcript, testimony of Tim Cook, *Epic Games, Inc. v. Apple Inc.*, May 21, 2021, pp. 3899-3890, 3902, 3907-3910; See also Apple presentation titled “FY20 LRF – Dec’19” APL-EG_10015140 - APL-EG_10015251 at ‘5244.

⁴⁷ APL-EG_10015140 - APL-EG_10015251 at ‘5244.

⁴⁸ APL-EG_10015140 - APL-EG_10015251 at ‘5140.

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of Apple costs to the Services and Products lines of business, and to the subsegments therein, including the App Store).⁴⁹

Q. Were documents like this PX2385 routinely prepared at Apple?

A. This is the only one that I recall.

Q. And what is the date of this document?

A. It is September of 2019.

Q. Does this document include an assessment of the App Store's profitability, sir?

A. No. Again, we don't do profitability at that level.

Q. And Epic's expert, Mr. Barnes, testified that it showed operating margins -- fully burdened operating margins for the App Store.

Is that correct, sir?

A. No.

45. However, the allocation performed by the FP&A Group, as reflected in the Products & Services Profitability Report, shows that operating expenses have been attributed and allocated to Apple's products and services, with no note of any unallocated expenses. In other words, there do not appear to be any operating expenses that have not been allocated, which indicates that the profit figures shown are fully burdened. I am not aware of any evidence Apple adduced, at the *Epic Games v. Apple* trial, of other costs, that were not included in the operating margin calculations referenced above.

46. While it is true that operating profits are not the same as net income (because interest income and expense and other income and expense are below the operating income line on an income statement), a comparison of operating profits for the App Store with operating profits of other entities and business units can still be an "apples-to-apples" comparison as long as they each are similarly defined. In other words, for example, even if there were to be an interest expense that has not been allocated to App Store Operating Profit (and Operating Margin), so long as the comparators also do not have interest expense allocated, a valid comparison is still possible.

⁴⁹ Trial transcript, testimony of Tim Cook, *Epic Games, Inc. v. Apple Inc.*, May 21, 2021, pp. 3877-3878. Trial Exhibit PX2385 includes the Products & Services Profitability Report, about which Mr. Cook was testifying.

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47. To further test the allocation and costs using Method 2 for Allocation Opex in the Products & Services Profitability Report, I performed the following analysis:

- I added all of the individual Services P&Ls, including the App Store. This results in what I have called the Total - Individual Services P&Ls. This is shown in Schedule 3.2.1.
- I then compared Total - Individual Services P&Ls to the Total - Services P&L, as also seen in the Products & Services Profitability Report. This comparison is summarized in the schedule below, showing that at times the individual Services line item P&Ls summed to be slightly higher, and at times slightly lower than, the listed total Services P&L, which makes sense since the total Services P&L was rounded to the nearest billion dollars (though rounding alone does appear to fully explain the difference, as there are some variances that are more than [REDACTED]⁵⁰). These positive and negative variances between the sum of the individual Services business unit P&Ls and the indicated total Services P&L, at the operating expense line, was between [REDACTED], as seen below (see red box added), with the majority of these appearing to be rounding differences.

Apple - Comparing Total Individual Services P&L vs. Total Services P&L

| Total - Individual Services P&Ls | | | | | Total - Services P&L | | | | | Variance | | | | | | | |
|----------------------------------|------------|------------|------------|------------|----------------------|---------------|------------|------------|------------|------------|------------|---------------|------------|------------|------------|------------|------------|
| (\$ in bill.) | FY 2016 | FY 2017 | FY 2018 | FY 2019 | FY 2020 | (\$ in bill.) | FY 2016 | FY 2017 | FY 2018 | FY 2019 | FY 2020 | (\$ in bill.) | FY 2016 | FY 2017 | FY 2018 | FY 2019 | FY 2020 |
| Revenue | \$26.2 | \$31.9 | \$39.5 | [REDACTED] | [REDACTED] | Revenue | \$27 | \$33 | \$40 | [REDACTED] | [REDACTED] | Revenue | (\$0.8) | (\$1.1) | (\$0.5) | [REDACTED] | [REDACTED] |
| COGS | \$13.7 | \$15.1 | \$15.3 | [REDACTED] | [REDACTED] | COGS | \$14 | \$15 | \$16 | [REDACTED] | [REDACTED] | COGS | (\$0.3) | \$0.1 | (\$0.7) | [REDACTED] | [REDACTED] |
| [3] GM | \$12.5 | \$16.8 | \$24.2 | [REDACTED] | [REDACTED] | GM | \$13 | \$18 | \$24 | [REDACTED] | [REDACTED] | GM | (\$0.5) | (\$1.2) | \$0.2 | [REDACTED] | [REDACTED] |
| Opex | \$3.4 | \$3.8 | \$5.5 | [REDACTED] | [REDACTED] | Opex | \$4 | \$4 | \$5 | [REDACTED] | [REDACTED] | Opex | (\$0.6) | (\$0.2) | \$0.5 | [REDACTED] | [REDACTED] |
| OM | \$9.2 | \$12.7 | \$19.0 | [REDACTED] | [REDACTED] | OM | \$10 | \$14 | \$19 | [REDACTED] | [REDACTED] | OM | (\$0.8) | (\$1.3) | \$0.0 | [REDACTED] | [REDACTED] |
| Opex % | 35.1% | 39.8% | 48.1% | [REDACTED] | [REDACTED] | Opex % | 36.1% | 42.1% | 47.8% | [REDACTED] | [REDACTED] | Opex % | 36.1% | 42.1% | 47.8% | [REDACTED] | [REDACTED] |

Notes and Sources

[1] APL-EG_08926412 - APL-EG_08926433 at '6424 - '6426 and Schedule 3.2.1.

[2] The Company's fiscal year is the 52- or 53-week period that ends on the last Saturday of September, Apple Form 10-K (for the period ended September 26, 2020), p. 36.

[3] Gross margin is calculated based on data presented in the Products & Services Profitability Report.

[4] Data shown as presented in the Products & Services Profitability Report. Due to rounding, Apple's presentation of its financial information may not tie out.

- I did the same for Products. This process and the resulting Total - Individual Products P&Ls are shown in Schedule 3.3.1 and 3.3, respectively. The comparison is shown below, again with the "sum of the parts" showing slightly higher and slightly lower than the listed equivalent values in the "whole" (in this case, Products), given that the Products total was rounded to the nearest billion dollars.⁵¹

⁵⁰ Schedule 3.2.

⁵¹ Schedule 3.3.



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Apple - Comparing Total Individual Products P&L vs. Total Products P&L

| Total - Individual Products P&Ls | Total - Products P&L | | | | | | | | Variance | | | | | | |
|----------------------------------|----------------------|---------|---------|------|---------|------|------|---------------|----------|-------|-------|---------------|---------|---------|---------|
| | FY | | FY | | FY | | FY | | FY | | FY | | | | |
| | (\$ in bill.) | 2016 | 2017 | 2018 | (Ecst.) | 2019 | 2020 | (\$ in bill.) | 2016 | 2017 | 2018 | (\$ in bill.) | 2016 | 2017 | 2018 |
| Revenue | \$189.1 | \$196.9 | \$225.4 | | | | | Revenue | 189 | 197 | 226 | | \$0.1 | (\$0.1) | (\$0.6) |
| COGS | \$117.1 | \$126.4 | \$147.7 | | | | | COGS | 118 | 126 | 148 | | (\$0.9) | \$0.4 | (\$0.3) |
| [3] GM | \$72.0 | \$70.5 | \$77.7 | | | | | GM | 71 | 71 | 78 | | \$1.0 | (\$0.5) | (\$0.3) |
| Opex | \$19.1 | \$21.5 | \$23.6 | | | | | Opex | 19 | 21 | 24 | | \$0.1 | \$0.5 | (\$0.4) |
| OM | \$51.6 | \$49.3 | \$53.8 | | | | | OM | 51 | 49 | 54 | | \$0.6 | \$0.3 | (\$0.2) |
| Opex % | 27.3% | 25.0% | 23.9% | | | | | Opex % | 27.3% | 24.9% | 23.9% | | | | |

Notes and Sources:

- [1] APL-EG_08926412 - APL-EG_08926433 at '6423 and Schedule 3.3.1.
- [2] The Company's fiscal year is the 52- or 53-week period that ends on the last Saturday of September, Apple Form 10-K (for the period ended September 26, 2020), p. 36.
- [3] Gross margin is calculated based on data presented in the Products & Services Profitability Report.
- [4] Data shown as presented in the Products & Services Profitability Report. Due to rounding, Apple's presentation of its financial information may not tie out.

- I then added the totals described above, which yields the Total - Individual Services and Products P&Ls.⁵²

Apple - Total of Individual Services and Products P&Ls

| Total - Individual Services P&Ls | Total - Individual Products P&Ls | | | | | Total - Individual Services and Products P&Ls | | | | | |
|--|----------------------------------|---------|------|---------|---------------|---|------|------|---------------|------|------|
| | FY | | FY | | FY | | FY | | FY | | |
| | (\$ in bill.) | 2016 | 2017 | 2018 | (\$ in bill.) | 2016 | 2017 | 2018 | (\$ in bill.) | 2016 | 2017 |
| Revenue | | \$26.2 | | \$31.9 | | \$39.5 | | | | | |
| COGS | | \$13.7 | | \$15.1 | | \$15.3 | | | | | |
| [3] GM | | \$12.5 | | \$16.8 | | \$24.2 | | | | | |
| Opex | | \$3.4 | | \$3.8 | | \$5.5 | | | | | |
| OM | | \$9.2 | | \$12.7 | | \$19.0 | | | | | |
| Total - Individual Services and Products P&Ls | | | | | | | | | | | |
| (\$ in bill.) | | | | | | | | | | | |
| Revenue | | FY 2016 | | FY 2017 | | FY 2018 | | | | | |
| COGS | | \$215.3 | | \$228.8 | | \$264.9 | | | | | |
| [3] GM | | \$130.8 | | \$141.5 | | \$163.0 | | | | | |
| Opex | | \$84.5 | | \$87.3 | | \$101.9 | | | | | |
| OM | | \$22.5 | | \$25.3 | | \$29.1 | | | | | |
| | | \$60.8 | | \$62.0 | | \$72.8 | | | | | |

Notes and Sources:

- [1] Schedules 3.2 and 3.3.
- [2] The Company's fiscal year is the 52- or 53-week period that ends on the last Saturday of September, Apple Form 10-K (for the period ended September 26, 2020), p. 36.
- [3] Gross margin is calculated based on data presented in the Products & Services Profitability Report.
- [4] Data shown as presented in the Products & Services Profitability Report. Due to rounding, Apple's presentation of its financial information may not tie out.

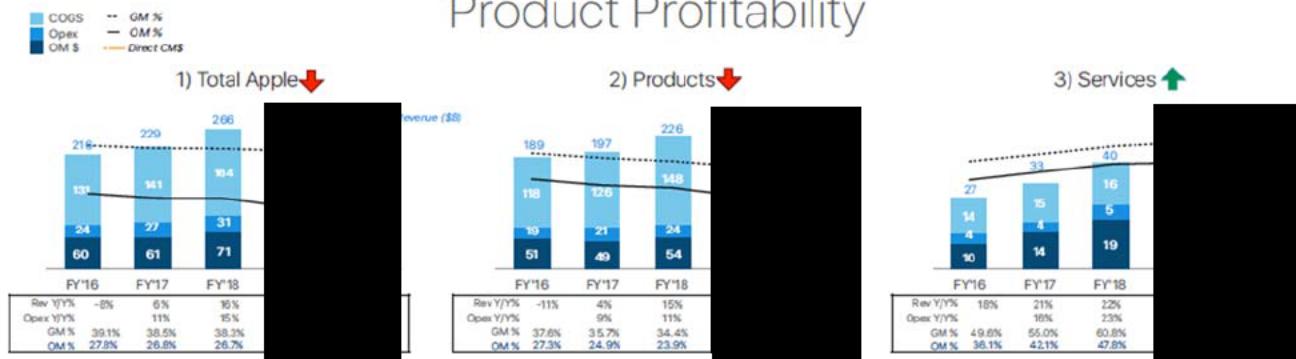
- I then compared the Total - Individual Services and Products P&Ls to the Total Apple P&L (see first image below, showing total Service, Products, and Total Apple).

⁵² Schedule 3.1.

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Product Profitability



- I then calculated the differences between the sum of the business units and Total Apple (from the same Products & Services Profitability Report), as well as to Apple's Form 10-K data, as shown below.⁵³

Apple - Comparing Total - Individual Services and Products P&Ls vs. Total Apple P&L vs. AppleTotal P&L per Form 10-K

| Total - Individual Services and Products P&Ls [1] | | | Total Apple P&L [2] | | | Apple Form 10-K [3] | | | | |
|---|---------|---------|---------------------|---------|---------|---------------------|----------|----------|----------|----------|
| | | | (\$ in bill.) | | | (\$ in bill.) | | | | |
| | | | FY 2016 | FY 2017 | FY 2018 | FY 2016 | FY 2017 | FY 2018 | FY 2019 | FY 2020 |
| Revenue | \$215.3 | \$228.8 | \$264.9 | | | Revenue | \$216 | \$229 | \$266 | |
| COGS | \$130.8 | \$141.5 | \$163.0 | | | COGS | \$131.38 | \$141.05 | \$163.76 | \$161.78 |
| [4] GM | \$84.5 | \$87.3 | \$101.9 | 85 | 88 | GM | \$84.26 | \$88.19 | \$101.84 | \$98.38 |
| Opex | \$22.5 | \$25.3 | \$29.1 | \$24 | \$27 | Opex | \$24.24 | \$26.84 | \$30.94 | \$34.46 |
| OM | \$60.8 | \$62.0 | \$72.8 | \$61 | \$61 | OM | \$60.02 | \$61.34 | \$70.90 | \$63.93 |
| Opex % | 28.2% | 27.1% | 27.5% | 27.8% | 26.8% | 26.7% | 27.8% | 26.8% | 26.7% | 24.6% |
| | | | | | | | | | | 24.1% |

| Variance of Total Individual Services and Products P&L to Total Apple P&L | | | | | | | | | | |
|---|---------|---------|---------|--|--|---------|----------|----------|----------|--|
| FY 2019 FY 2020 (Fest.) (Fest.) | | | | | | | | | | |
| (\$ in bill.) | | | | | | | | | | |
| Revenue | (\$0.7) | (\$0.2) | (\$1.1) | | | Revenue | (\$0.34) | (\$0.39) | (\$0.69) | |
| COGS | (\$0.2) | (\$0.5) | (\$1.0) | | | COGS | (\$0.58) | (\$0.49) | (\$0.76) | |
| GM | (\$0.5) | (\$0.7) | (\$0.1) | | | GM | \$0.24 | (\$0.88) | \$0.06 | |
| Opex | (\$1.5) | (\$1.7) | (\$1.9) | | | Opex | (\$1.74) | (\$1.55) | (\$1.84) | |
| OM | (\$0.2) | \$1.0 | \$1.8 | | | OM | \$0.78 | \$0.66 | \$1.90 | |

| Variance of Total - Individual Services and Products P&Ls to Apple Form 10-K | | | | | | | | | | |
|--|----------|----------|----------|--|--|---------|----------|----------|----------|--|
| FY 2016 FY 2017 FY 2018 | | | | | | | | | | |
| (\$ in bill.) | | | | | | | | | | |
| Revenue | (\$0.34) | (\$0.39) | (\$0.69) | | | Revenue | (\$0.34) | (\$0.39) | (\$0.69) | |
| COGS | (\$0.58) | (\$0.49) | (\$0.76) | | | COGS | (\$0.58) | (\$0.49) | (\$0.76) | |
| GM | \$0.24 | (\$0.88) | \$0.06 | | | GM | \$0.24 | (\$0.88) | \$0.06 | |
| Opex | (\$1.74) | (\$1.55) | (\$1.84) | | | Opex | (\$1.74) | (\$1.55) | (\$1.84) | |
| OM | \$0.78 | \$0.66 | \$1.90 | | | OM | \$0.78 | \$0.66 | \$1.90 | |

Notes and Sources

- [1] Schedule 3.1
 [2] APL-EG_08926412 - APL-EG_08926433 at '6423.
 [3] The Company's fiscal year is the 52- or 53-week period that ends on the last Saturday of September, Apple Form 10-K (for the period ended September 26, 2020), pp. 19, 31, 36 and Apple Form 10-K (for the period ended September 29, 2018), p. 38.
 [4] Gross margin is calculated based on data presented in the Products & Services Profitability Report.
 [5] Data shown as presented in the Products & Services Profitability Report. Due to rounding, Apple's presentation of its financial information may not tie out.

48. As discussed above, the Apple Total P&L per the Products & Services Profitability Report reconciles very closely to the Apple's Form 10-K, with many of the differences appearing to be rounding differences, sometimes with the sum of the parts greater than the whole and sometimes less than the whole—although, again, it appears that the differences are not entirely due to rounding as the variances are in some instances greater than \$0.5 billion or less than -\$0.5 billion. The Total - Individual Services and Products P&Ls, which accumulate all the data from each business unit, including the App Store, for both the Services and Products lines of business, is only slightly different from the figures found in the income statement in Apple's Form 10-K (and audited by Apple's audit firm, PwC). For example, in FY 2016, the sum of the business unit P&Ls showed

⁵³ Schedule 3.

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operating income of \$60.8 billion, whereas the listed total for Apple in the same document (the Products & Services Profitability Report) had operating income of \$61 billion, and Apple's Form 10-K income statement had operating income of \$60.02. In FY 2017, those figures were \$62.0 billion in operating income by the sum of the business units, \$61 billion for total Apple in the Products & Services Profitability Report, and \$61.34 billion in Apple's FY 2017 Form 10-K income statement. All of these variances were less than 1% of revenue. The biggest variance was in FY 2019 (Forecast), when there was a variance of 1.35% of revenue at the operating profit line, between the sum of the business units and Apple total (both from the Products & Services Profitability Report), but this difference was smaller (less than 1% of revenue) when compared to the FY 2019 income statement, as seen above.

49. My analysis described above indicates that the operating margin for the App Store and other business units, as shown in the Products & Services Profitability Report, are operating margins that appear to be fully burdened, or very close thereto, given the small variances I calculate. In other words, my analysis indicates that there is no large quantity of operating expenses not considered in the calculation of the operating margins in the Products & Services Profitability Report, including that of the App Store, given the closeness to Apple's income statements from its Form 10-K filings. While I found that the sum of the individual Services business units' operating expenses were very close to the total Services operating expenses, and often showing that the sum of the business units had *more* operating expenses than the Services total (as described above), there is a larger negative difference when including Products, at the Total Apple level, as seen in Schedule 3 (shown above). At the most, the amount of operating expense understatement, at the Total Apple level, is on the order of \$1.5 to \$1.9 billion (less than 1% of revenue), for FY 2016 - FY 2018 (the differences are similar when comparing to Apple's Form 10-K income statements). In summary, the App Store operating margins shown in Products & Services Profitability Report above for FY 2016 - FY 2019 appear to be reasonable estimates, based on a fully burdened allocation of Apple's operating expenses.

50. To be conservative, I have made an adjustment to the App Store operating margin as an alternative calculation, based on the amounts of potential unallocated operating expenses I identified above (even though these do not appear to be related to Services). As Mr. Cook did not know details about Method 2 for Allocation Opex, I have allocated the Total Apple operating expense variance comparing the total of the business units to Total Apple (in the Products & Services Profitability Report), based on revenue, which is the most commonly

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used method I have seen in the course of my 30-year career performing financial and accounting investigations, as well as being a method that Apple uses in its internal calculations presenting financial information, per the testimony of Apple's finance manager, Mark Rollins.⁵⁴

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

51. This calculation and the resulting margins are shown below, showing the effect of allocating any variance to business units, and particularly to the App Store.⁵⁵

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

⁵⁴ Deposition of Mark Rollins, February 11, 2021, p. 155. Mr. Rollins further testified that part of his role at Apple is to [REDACTED]

[REDACTED] (Deposition of Mark Rollins, February 11, 2021, pp. 19-22).

⁵⁵ Schedule 4.

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App Store P&L per Products & Services Profitability Report - Adjusted

| (\$ in bill.) | FY 2016 | FY 2017 | FY 2018 | FY 2019 (Fcst.) |
|--|---------|---------|---------|--------------------|
| Revenue | \$7 | \$9 | \$12 | |
| COGS | \$1 | \$1 | \$1 | |
| [2] GM | \$6 | \$8 | \$11 | |
| Opex | \$1 | \$1 | \$2 | |
| OM | \$5 | \$7 | \$9 | |
| Opex margin | 69.6% | 74.2% | 74.9% | |
| [3] Unallocated Opex | \$1.5 | \$1.7 | \$1.9 | |
| [3] Apple revenue | \$216 | \$229 | \$266 | |
| Unallocated Opex as % of Apple revenue | 0.7% | 0.7% | 0.7% | |
| Adjusted Opex margin | 68.9% | 73.5% | 74.2% | |

Notes and Sources:

- [1] APL-EG_08926412 - APL-EG_08926433 at '6424. Document dated in September 2019.
Apple has a fiscal year ending in September, indicating 2019 data is close to actual results.
- [2] Gross margin is calculated based on data presented in the Products & Services Profitability
- [3] Schedule 3.
- [4] Data shown as presented in the Products & Services Profitability Report. Due to rounding, Apple's presentation of its financial information may not tie out.

3.3 The testimony of Mark Rollins regarding other Apple documents containing App Store Profit & Loss information confirms Apple's calculations for the App Store operating margins reflected in its Products & Services Profitability Report.

52. I also looked at other Apple financial documents that reflected App Store profitability calculations, as a check of the analysis and figures described above. For FY 2018, a document titled "App Store P&L" showed an Apple App Store profitability calculation, as seen below.⁵⁶

| App Store P&L | |
|--------------------------|------------|
| FY'18 | |
| Revenue | \$11,533M |
| COGS | (\$43M) |
| Standard Margin \$ | \$11,490M |
| Standard Margin % | 100% |
| OCOGS | (\$872M) |
| Gross Margin \$ | \$10,618M |
| Gross Margin % | 92% |
| OPEX variable | (\$848M) |
| OPEX non-variable | (\$518M) |
| Total OPEX | (\$1,162M) |
| Margin | \$9,456M |
| Margin % | 82% |

⁵⁶ APL-APPSTORE_08883133 - APL-APPSTORE_08883332 at '3286.

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53. For FY 2019, a document titled “App Store Business Management FY20 Overview” similarly presented an App Store profitability calculation, as seen below.⁵⁷

[REDACTED]

54.

[REDACTED]
[REDACTED]
[REDACTED] [REDACTED]
[REDACTED]

60

55. For FY 2020, a document titled “App Store” similarly showed the App Store profitability calculation, as shown below:⁶¹

⁵⁷ APL-APPSTORE_10176241 - APL-APPSTORE_10176337 at '6318.

⁵⁸ [REDACTED] Deposition of Mark Rollins, February 11, 2021, p. 238.

⁵⁹ Deposition of Mark Rollins, February 11, 2021, pp. 239-240.

⁶⁰ Deposition of Mark Rollins, February 11, 2021, pp. 237-240.

⁶¹ APL-APPSTORE_10187823 - APL-APPSTORE_10187995 at '7949.



56. The above data for FY 2020 is identified as “FY’20F,” indicating that it was a forecast.⁶² However, the second slide of this presentation has a note stating “we’ll start with a review of FY20,” which indicates these data represent near-final results for the FY 2020.⁶³

57. As seen in the excerpted pages above, these profitability calculations include OCOGS, which Mr. Rollins described as Other Costs of Goods Sold and include costs such as:⁶⁴

- Localization - costs associated with taking editorial content and making it available in different countries.⁶⁵
- Facilities - buildings and offices within which employees associated with OCOGS costs sit.⁶⁶
- BHU depreciation - business heads up depreciation, for when new initiatives are brought into the planning phase or are planned to be rolled out.⁶⁷
- Design - costs associated with the design of the App Store (e.g., the website).⁶⁸

58. In 2018, OCOGS are further broken down by direct OCOGS and allocated OCOGS.⁶⁹

⁶² According to Apple’s Mark Rollins, 2019F means a 2019 forecast. Deposition of Mark Rollins, February 11, 2021, p. 238.

⁶³ APL-APPSTORE_10187823 - APL-APPSTORE_10187995 at '7824.

⁶⁴ Deposition of Mark Rollins, February 11, 2021, p. 111.

⁶⁵ Deposition of Mark Rollins, February 11, 2021, p. 111.

⁶⁶ Deposition of Mark Rollins, February 11, 2021, p. 112.

⁶⁷ Deposition of Mark Rollins, February 11, 2021, p. 112.

⁶⁸ Deposition of Mark Rollins, February 11, 2021, p. 112.

⁶⁹ APL-APPSTORE_08883133 - APL-APPSTORE_08883332 at '3287. See also Deposition of Mark Rollins, February 11, 2021, pp. 114-121.

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- Direct OCOGS:
 - Design/pro services - costs associated with the design of the App Store and third-party professional services that help with the design of the App Store.⁷⁰
 - Localization - costs associated with taking editorial content and making it available in different countries.⁷¹
 - CDN - content delivery network, which is the bandwidth servers related to the headcount for individuals working in groups within OCOGS.⁷²
 - Chargebacks - costs associated with customer purchase disputes.⁷³
 - Content Costs - costs of generating content for the App Store.⁷⁴
- Allocated OCOGS:
 - Headcount - costs associated with salaries and benefits for employees that are associated with the App Store.⁷⁵
 - Shared services - services that are shared across different groups at Apple (e.g., market research reports from a third-party company that are used by different parts of the company).⁷⁶
 - Facilities - buildings and offices within which employees associated with OCOGS costs sit.⁷⁷
 - Allocation - allocations of tools, equipment and machinery, which would also include the business heads-up depreciation discussed above.⁷⁸

59. [REDACTED]

[REDACTED]

[REDACTED] 79

60. Although these costs are broken into direct and allocated OCOGS, Mr. Rollins testified that direct costs cannot necessarily be directly traced from the accounting system to the App Store, [REDACTED]

[REDACTED] ⁸⁰ Mr. Rollins further testified that not all OCOGS are included in the calculations reflected in this document.⁸¹ However, I understand that the costs reflected in these documents include both variable and

⁷⁰ Deposition of Mark Rollins, February 11, 2021, p. 116.

⁷¹ Deposition of Mark Rollins, February 11, 2021, pp. 111, 115.

⁷² Deposition of Mark Rollins, February 11, 2021, pp. 116-118.

⁷³ Deposition of Mark Rollins, February 11, 2021, p. 118.

⁷⁴ Deposition of Mark Rollins, February 11, 2021, p. 118.

⁷⁵ Deposition of Mark Rollins, February 11, 2021, p. 118.

⁷⁶ Deposition of Mark Rollins, February 11, 2021, p. 119.

⁷⁷ Deposition of Mark Rollins, February 11, 2021, pp. 112, 120-121.

⁷⁸ Deposition of Mark Rollins, February 11, 2021, p. 120.

⁷⁹ Deposition of Mark Rollins, February 11, 2021, pp. 21, 113-115, 118.

⁸⁰ Deposition of Mark Rollins, February 11, 2021, p. 115.

⁸¹ Deposition of Mark Rollins, February 11, 2021, pp. 129-131.

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non-variable operating expenses.⁸² For FY 2018, information indicates that the Operating Expenses include expenses associated with credit card fees, affiliate fees (costs for associated with links with third-party websites and apps⁸³), creative services, analytics pro services, design (marketing expenses and video productions), headcount, facilities, and an allocation. [REDACTED]

5

61. When Mr. Rollins was asked about the financial documents described above, he testified that the financial information presented for the App Store did not include all costs.⁸⁴ [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

.90

62. To determine the App Store's operating margin under an alternative approach, I utilized the Apple financial documents described above for FY 2018 - FY 2019, making adjustments to account for those costs identified by Mr. Rollins. [REDACTED]

[REDACTED]

[REDACTED]

.91 I have included below

⁸² APL-APPSTORE_08883133 - APL-APPSTORE_08883332 at '3286, APL-APPSTORE_10176241- APL-APPSTORE_10176337 at '6318 and APL-APPSTORE_10187823 - APL-APPSTORE_10187995 at '7949.

⁸³ Deposition of Mark Rollins, February 11, 2021, pp. 122-123.

⁸⁴ APL-APPSTORE_08883133 - APL-APPSTORE_08883332 at '3290. See also Deposition of Mark Rollins, February 11, 2021, pp. 122-123. For "Allocations" as presented as a component of "App Store OPEX" on Bates page '3290, the document states this "includes T&E/M&E," but provides no additional information. When asked about this document and page at his deposition, Mr. Rollins did not provide further information as to what is included in "Allocations" (Deposition of Mark Rollins, February 11, 2021, pp. 122-125).

⁸⁵ Deposition of Mark Rollins, February 11, 2021, pp. 242-243.

⁸⁶ Deposition of Mark Rollins, February 11, 2021, pp. 59, 123-124.

⁸⁷ Deposition of Mark Rollins, February 11, 2021, pp. 118-119.

⁸⁸ Mr. Rollins testified that WWDR costs relate to developer relations where Apple provides services to help developers of working with the App Store, including getting an app on the App Store and reviewing apps (Deposition of Mark Rollins, February 11, 2021, pp. 135-136).

⁸⁹ Deposition of Mark Rollins, February 11, 2021, pp. 129-132.

⁹⁰ Deposition of Mark Rollins, February 11, 2021, pp. 130-131.

⁹¹ APL-APPSTORE_09814097.xlsx. See also Deposition of Mark Rollins, February 11, 2021, pp. 148-150.

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an excerpt of this document showing Apple's descriptions and costs included for the period beginning Q1 FY 2015 through Q4 FY 2016:⁹²

APPLE INC.
WW DEVELOPER RELATIONS (OCOGS)
Highly Confidential

| (\$K) | Q1 FY15 | Q2 FY15 | Q3 FY15 | Q4 FY15 | Q1 FY16 | Q2 FY16 | Q3 FY16 | Q4 FY16 |
|----------------------------|-----------------|-----------------|-----------------|-----------------|-----------------|-----------------|-----------------|-----------------|
| [1] Headcount Related | \$9,443 | \$9,538 | \$10,337 | \$10,494 | \$13,125 | \$12,149 | \$12,552 | \$13,142 |
| [2] Programs | \$511 | \$573 | \$950 | \$1,503 | \$3,459 | \$164 | \$990 | \$468 |
| [3] Fixed Costs | \$92 | \$173 | \$214 | \$235 | \$117 | \$133 | \$130 | \$99 |
| [4] Other Costs | \$581 | \$374 | \$366 | \$314 | \$588 | \$234 | \$256 | \$234 |
| Total Spend (OCOGS) | \$10,628 | \$10,657 | \$11,867 | \$12,546 | \$17,290 | \$12,680 | \$13,929 | \$13,943 |

[1] Costs include salary, wages, bonuses related to App Reviewers, technical support, operations to maintain the developer website.

[2] Costs include fraud investigation services.

[3] Costs include telecom, depreciation and amortization, facilities.

[4] Costs include travel & entertainment and machinery & equipment/supplies.

63. Mr. Rollins testified that this spreadsheet includes direct costs related to the App Store, but does not include indirect costs.⁹³

64. [REDACTED]

[REDACTED]

[REDACTED]

I have included below an excerpt of this document showing Apple's descriptions and costs included, for the period from Q1 FY 2015 through Q4 FY 2016:⁹⁵

⁹² APL-APPSTORE_09814097.xlsx. See also Deposition of Mark Rollins, February 11, 2021, pp. 148-150.

⁹³ Deposition of Mark Rollins, February 11, 2021, pp. 147-149, 152-153.

⁹⁴ APL-APPSTORE_09814099.xlsx.

⁹⁵ APL-APPSTORE_09814099.xlsx.

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APPLE INC.
WW DEVELOPER RELATIONS (OPEX)
Highly Confidential

| (\$K) | Q1 FY15 | Q2 FY15 | Q3 FY15 | Q4 FY15 | Q1 FY16 | Q2 FY16 | Q3 FY16 | Q4 FY16 |
|---------------------------|----------------|----------------|-----------------|----------------|----------------|----------------|-----------------|----------------|
| [1] Headcount Related | \$6,007 | \$6,078 | \$6,391 | \$5,923 | \$7,220 | \$6,905 | \$7,122 | \$6,753 |
| [2] Programs | (\$19) | \$373 | \$7,324 | (\$424) | \$397 | \$741 | \$15,213 | \$348 |
| [3] Fixed Costs | \$249 | \$306 | \$313 | \$298 | \$103 | \$95 | \$136 | \$102 |
| [4] Other Costs | \$848 | \$1,061 | \$1,168 | \$1,098 | \$1,287 | \$1,189 | \$1,110 | \$1,585 |
| Total Spend (OPEX) | \$7,085 | \$7,819 | \$15,196 | \$6,895 | \$9,008 | \$8,929 | \$23,580 | \$8,788 |

[1] Costs include salary, wages, bonuses related to establishing and maintaining developer relations.

[2] Costs include app development contractors, programs (e.g., WWDC).

[3] Costs include telecom, depreciation and amortization, facilities.

[4] Costs include travel & entertainment and machinery & equipment/supplies.

65. Mr. Rollins similarly testified that this spreadsheet includes direct costs related to the App Store, but does not include indirect costs.⁹⁶

66. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] I have included below an excerpt of this document, showing Apple's descriptions and costs included, for the period from Q1 FY 2015 through Q4 FY 2016:⁹⁸

⁹⁶ Deposition of Mark Rollins, February 11, 2021, pp. 147-149, 152-153.

⁹⁷ APL-APPSTORE_09814098.xlsx.

⁹⁸ APL-APPSTORE_09814098.xlsx.



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APPLE INC.
APP STORE MARKETING (OPEX)
Highly Confidential

| (\$K) | Q1 FY15 | Q2 FY15 | Q3 FY15 | Q4 FY15 | Q1 FY16 | Q2 FY16 | Q3 FY16 | Q4 FY16 |
|-------------------------------|----------------|----------------|----------------|----------------|----------------|----------------|----------------|----------------|
| [1] Headcount Related | \$2,305 | \$2,292 | \$2,767 | \$2,868 | \$2,927 | \$3,004 | \$2,930 | \$3,161 |
| [2] Programs | \$254 | \$1,331 | \$2,027 | \$2,213 | \$2,316 | \$2,365 | \$5,522 | \$2,394 |
| [3] Fixed Costs | \$26 | \$83 | \$28 | \$50 | \$33 | \$26 | \$24 | \$16 |
| [4] Other Costs | \$329 | \$167 | \$258 | \$232 | \$242 | \$183 | \$107 | \$143 |
| [5] Total Spend (OPEX) | \$2,914 | \$3,874 | \$5,079 | \$5,363 | \$5,517 | \$5,577 | \$8,583 | \$5,713 |

[1] Costs include salary, wages, and bonuses associated with marketing related operations and business management.

[2] Costs include advertising, tool development services, and editorial writer contractors.

[3] Costs include telecom, depreciation and amortization, facilities.

[4] Costs include travel & entertainment and machinery & equipment/supplies.

[5] Costs include US spend for each cost category with the exception that advertising expenses are worldwide.

67. Mr. Rollins testified that this spreadsheet also includes direct costs related to the App Store, but does not include indirect costs.⁹⁹

68.

”101

69. In my adjustment to account for the corporate-level expenses Mr. Rollins testified were not included in the documents described above, I have allocated these costs based on revenue [REDACTED]

102

⁹⁹ Deposition of Mark Rollins, February 11, 2021, pp. 147-149, 152-153.

¹⁰⁰ APL-APPSTORE 08856866.xlsx; APL-APPSTORE 09806205.xlsx.

¹⁰¹ Deposition of Mark Rollins, February 11, 2021, pp. 139-141.

¹⁰² Deposition of Mark Rollins, February 11, 2021, p. 155.

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70. [REDACTED]

[REDACTED]
[REDACTED] [REDACTED]
[REDACTED] [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED] 105

Additional Operating Expense to Be Allocated to App Store

| | (\$ millions) | FY 2018 | FY 2019 |
|---|---------------|----------|---------|
| Apple Services | | | |
| [1] LOB Revenue | | \$37,808 | |
| [1] LOB OPEX | | \$4,606 | |
| OPEX as a % of Revenue | | 12.18% | |
| iTunes | | | |
| [2] WW Revenue | | \$18,012 | |
| [2] WW OPEX | | \$2,020 | |
| [3] iTunes OPEX - Estimated Difference between WW OPEX and iTunes OPEX - Estimated | | \$2,195 | |
| | | \$174 | |
| [4] App Store revenue | | \$11,533 | |
| [5] Portion of additional OPEX to App Store | | \$112 | |

Notes and Sources:

- [1] Schedule 5.5.
- [2] Schedule 5.6.
- [3] Based upon the Services LOB ratio of OPEX to revenue.
- [4] Schedule 5.
- [5] Based on App Store revenue as percentage of iTunes revenue.

71. Using this process, I have identified an adjustment for operating expenses not allocated to the App Store totaling \$112 million and [REDACTED] in FY 2018 and FY 2019, respectively, as seen above.

¹⁰³ APL-APPSTORE_08856866.xlsx.

¹⁰⁴ Deposition of Mark Rollins, February 11, 2021, pp. 154-155.

¹⁰⁵ Schedule 5.1.

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72. I then incorporated the four adjustments described above to estimate a fully burdened App Store P&L, which shows that the App Store had operating margins of 79.6% in 2018 and 79.6% in 2019, as shown below:¹⁰⁶

Apple App Store Operating Margin Percentage (Alternative Calculation)

| (\$ millions) | [1] | [2] | [3] |
|-------------------------------------|-----------|---------|---------|
| | FY 2018 | FY 2019 | FY 2020 |
| Net revenue | \$ 11,533 | | |
| COGS | \$43 | | |
| Standard margin | \$11,490 | | |
| OCOGS | \$872 | | |
| Gross Margin | \$10,618 | | |
| OPEX | \$1,162 | | |
| Operating margin | \$9,456 | | |
| Operating margin % | 82.0% | | |
| [4] Adjustments: | | | |
| [5] WWDR OCOGS | \$68 | | |
| [6] WWDR OPEX | \$75 | | |
| [7] AppStore Marketing OPEX | \$23 | | |
| [8] OPEX not allocated to App Store | \$112 | | |
| Adjusted operating margin | \$9,178 | | |
| Adjusted operating margin % | 79.6% | | |

Notes and Sources:

- [1] APL-APPSTORE_08883133 - APL-APPSTORE_08883332 at '3286.
- [2] APL-APPSTORE_10176241 - APL-APPSTORE_10176337 at '6318.
- [3] APL-APPSTORE_10187823 - APL-APPSTORE_10187995 at '7948. The data for 2020 is labeled "FY'20F," which may indicate a forecast. However, the second slide of the presentation states "we'll start with a review of FY20," indicating that the data may represent actual results (APL-APPSTORE_10187823 - APL-APPSTORE_10187995 at '7824).
- [4] Mr. Rollins testifies that the App Store Operating Margin is missing expenses. See Deposition of Mark Rollins, February 11, 2021, pp. 129-131. I have adjusted the reported App Store operating margins to include these expenses in the calculation.
- [5] Schedule 5.2.
- [6] Schedule 5.3.
- [7] Schedule 5.4.
- [8] Schedule 5.1.

73. As can be seen above, accounting for expenses identified by Mr. Rollins as not reflected in the Apple financial documents, the calculated App Store operating margins, on a fully burdened basis, using this alternative methodology, are consistent with the operating margins in the Products & Services Profitability Report described above. This provides further evidence that the operating margins reflected in Products & Services Profitability Report are fully burdened and accurate, and that my alternate calculation reflecting an allocation of unexplained differences is also accurate, if not understated, in its indicated operating margins.

¹⁰⁶ Schedule 5.

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3.4 Apple App Store contribution margin data confirm Apple's calculations for the App Store operating margins reflected in its Products & Services Profitability Report.

74. Mr. Rollins testified that, based on his discussion with the IS&S finance team, Apple had not put together a P&L for the App Store prior to FY 2019, to be included in materials for executives.¹⁰⁷ However, other information indicates that Apple executives were distributed financial information in a 2014 file regarding the App Store, which included P&L information.¹⁰⁸ [REDACTED]

[REDACTED]

¹⁰⁹ Mr. Rollins testified that “Apps” refers to App Store when asked about this document at his deposition.¹¹⁰ An excerpt of this file is shown below, reflecting App Store data.¹¹¹

| B | C | D | E | F | G | H | I | J | K | L | M | N | O | P | Q | R | S | T | U | V | | | |
|---------------------------------|------------------------|--------------|---------------|-----------------|-----------------|----------------|-------------------|----------------|----------------|----------------|----------------|--------------|-------------|----------------|-------------|------------|----------------|----------------|-------------------------------|---------|---------|---------|-----|
| Baseline - Excludes Strategies | | Media | | | Music Sub | | | Apps | | | iTunes | | | Productivity | | | Apple Pay | | Total iTunes and Productivity | | | | |
| | | 2013 | 2014 | 2015 | 2014 | 2015 | 2013 | 2014 | 2015 | 2013 | 2014 | 2015 | 2013 | 2014 | 2015 | 2014 | 2015 | 2013 | 2014 | 2015 | YoY % | | |
| Billings | 7,170 | 6,547 | 6,107 | - | 42 | 9,082 | 14,111 | 19,108 | 16,252 | 20,657 | 25,258 | 313 | 141 | 75 | - | 30 | 16,565 | 20,798 | 25,363 | 22% | | | |
| Net Revenue | 6,494 | 5,988 | 5,628 | 5 | 34 | 2,373 | 3,629 | 4,912 | 8,867 | 9,622 | 10,574 | 323 | 275 | 176 | - | 30 | 9,190 | 9,897 | 10,780 | 9% | | | |
| COGS | 4,967 | 4,564 | 4,308 | 5 | 32 | 50 | 83 | 38 | 5,017 | 4,652 | 4,378 | 2 | 1 | 0 | - | - | 5,019 | 4,653 | 4,378 | -6% | | | |
| Standard Margin Std Margin % | 1,527 24% | 1,424 24% | 1,320 23% | (0) -2% | 2 | 2,322 7% | 3,546 98% | 4,874 98% | 3,849 43% | 4,970 52% | 6,197 59% | 322 99% | 274 100% | 176 100% | - | 30 100% | 4,171 45% | 5,244 53% | 6,402 59% | 22% | | | |
| OCOGS | 342 | 347 | 367 | 7 | 58 | 168 | 269 | 413 | 510 | 622 | 838 | 11 | 8 | 5 | 3 | 17 | 521 | 634 | 860 | 36% | | | |
| Gross Margin GM% | 1,185 18% | 1,077 18% | 953 17% | (7) -144% | (56) -162% | 2,154 91% | 3,277 90% | 4,461 91% | 3,340 38% | 4,348 45% | 5,358 51% | 310 96% | 266 97% | 171 97% | (3) 44% | 13 44% | 3,650 40% | 4,610 47% | 5,543 51% | 20% | | | |
| OPEX w/SBC | 506 | 469 | 238 | 13 | 32 | 361 | 515 | 908 | 867 | 997 | 1,178 | 193 | 228 | 256 | 2 | 10 | 1,060 | 1,227 | 1,445 | 18% | | | |
| Contribution Margin CM% | 679 10.5% | 608 10.1% | 715 12.7% | (20) -413.2% | (88) -254.8% | 1,793 75.6% | 2,762 76.1% | 3,554 72.3% | 2,472 27.9% | 3,350 34.8% | 4,180 39.5% | 117 36.3% | 38 13.8% | (85) -48.5% | (5) 9.9% | 3 28.2% | 2,590 28.2% | 3,383 34.2% | 4,098 38.0% | 21% | | | |
| Headcount | | | | | | | | | | | | 1,216.5 | 1,707.0 | 2,054.5 | 321.5 | 669.5 | 761.5 | 16.5 | 106.0 | 1,538.0 | 2,393.0 | 2,922.0 | 22% |
| Total IS&S | iTunes Baseline | | iAd and Radio | | Services | | iTunes Strategies | | + | | : | | 4 | | | | | | | | | | |

75. Mr. Rollins testified that he did not know how the specific line items for COGS, OCOGS, and OPEX in this document were calculated,¹¹² and there was no indication whether or not corporate-level costs were included.¹¹³ Mr. Rollins also testified that without having the backup data to this spreadsheet, he was unaware if WWDR OCOGS, WWDR OPEX, or marketing expenses were included.¹¹⁴ Mr. Rollins also testified that he did not believe it was possible to pull App-Store-specific costs such as COGS, OCOGS, and OPEX from Apple’s SAP system at the time the document was created.¹¹⁵

¹⁰⁷ Deposition of Mark Rollins, February 11, 2021, pp. 268-270.

¹⁰⁸ APL-APPSTORE_04685284 - APL-APPSTORE_04685285 at '5284; APL-APPSTORE_04685286.xlsx.

¹⁰⁹ APL-APPSTORE_04685286.xlsx.

¹¹⁰ Deposition of Mark Rollins, February 11, 2021, p. 257.

¹¹¹ APL-APPSTORE_04685286.xlsx.

¹¹² Deposition of Mark Rollins, February 11, 2021, pp. 262-263.

¹¹³ Deposition of Mark Rollins, February 11, 2021, pp. 266-267.

¹¹⁴ Deposition of Mark Rollins, February 11, 2021, pp. 264-265.

¹¹⁵ Deposition of Mark Rollins, February 11, 2021, pp. 257-260.



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76. The document including this P&L data¹¹⁶ was attached to the email shown below, sent to Apple's Eddy Cue, vice president of Internet Services and Software (IS&S):¹¹⁷

Subject: IS&S P&L's
From: "Tim Billups" [REDACTED]
Received(Date): Fri, 31 Oct 2014 22:36:55 +0000
To: "Eddy Cue" [REDACTED]
Attachment: IS&S and iAd P&L's Final.xlsx
Date: Fri, 31 Oct 2014 22:36:55 +0000

Eddy

Here is the final FY13 to FY15 P&L that Luca requested for your organization. I have updated it to reflect the stock based compensation costs that are now being allocated to the business so that it is in line with Tim's view. FY15 reflects us hitting the target OPEX across all of all of your teams. To do this, I noted that we have challenged the teams to:

- 1) Find further cuts in marketing while maintaining the \$75M for the Fuse (Music Sub) launch and maintaining the Revenue Plan
- 2) Layer in additional CC/Chargeback savings
- 3) Delay hiring out of Q1 (for most teams)

While we are hitting the OPEX target, I let Luca know that you want to challenge one aspect to the target we gave you - the \$11M in OPEX associated with two acquisitions (Swell - Project Sahara and Camel Audio - Project Carolina).

I indicated that your understanding is that we historically did not have to cut costs to afford acquisitions under the presumption that it would constrain the teams willingness to add talent or technology. You would like a waiver on these acquisition costs because you feel it was not clear that we needed to cut to fund these at the time the decision was made to do the deals. I let him know that you may discuss this with Tim C.

Other callouts on the P&L:

- 1) Total contribution margin declines from 16% to 13% from FY14 to FY15 (-11% YoY fully burdened with all of Maps costs). This is driven by the Services businesses as iTunes and iAd/Radio show a net increase in CMS of 21% YoY. The decline for Services is largely by the increases in OCOGS - growing at 60% YoY or \$750M. The majority relates to iCloud and to a lesser extent Maps expansions that we bridged in the Plan meeting. 2) The estimate for iCloud revenue is \$331M on this P&L. The LRF had \$400M which is the high side scenario. We may be able to stretch to this, but we did not put the high side into the Plan.
- 3) There is a little bit of revenue risk related to the delay of Int'l Radio to March but the team feels that we can make it up with extra revenue from Apple Pay banks (advertising the service in the iAd platform) and implementation of the App Search advertising model recently approved by Phil and Tim.

[red boxes added]

77. As seen in the email above, the App Store P&L from FY 2013 - FY 2015 includes such expenses as stock based compensation, marketing, chargebacks, headcount, and acquisition costs. Further, the email and attached P&L indicates the "Total Eddy" roll-up contribution margin comprised of "iTunes (Baseline +

¹¹⁶ APL-APPSTORE_04685286.xlsx.

¹¹⁷ APL-APPSTORE_04685284 - APL-APPSTORE_04685285 at '5284; Deposition of Eddy Cue, February 8, 2021, p. 24.

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Strategies)" (of which the App Store is a component), "iAd and Radio," and "Services" is "*fully burdened*" (emphasis added).¹¹⁸

78. The contribution margins for the App Store in the FY 2013 - FY 2015 P&L data¹¹⁹ are consistent with the fully burdened operating margins that were calculated above, as well as the operating margins as calculated by Apple in its Products & Services Profitability Report.

3.5 Other marketplace companies have earned much lower operating margins than has Apple on the App Store.

79. I was asked to calculate operating margins for an identified set of companies. I understand that these companies, or segments of these companies, are principally focused on operating online marketplaces. These marketplace companies provide a platform to permit buyers and sellers to locate each other, but do not directly provide the goods or services purchased, similar to the Apple App Store. These platforms contain features that facilitate those transactions, but the marketplace companies earn revenue principally in the form of fees or commissions on third-party transactions and ancillary services such as allowing sellers to list and advertise their products, as does the App Store. In accounting terms, this is often referred to as the "agency accounting" model, as the business does not have a cost associated with the purchase of a product and a sale of that product, but rather receives a fee for its role in transactions.¹²⁰ The five companies for which I performed my analysis are eBay, Inc., Etsy, Inc., Rakuten Group, Inc., MercadoLibre, Inc., and Alibaba Group Holdings, Limited.

80. From a revenue recognition and reporting standpoint, for the App Store, Apple recognizes the revenue associated with the commission or fee it receives and does not record the revenue for the entire third-party app sale through the App store. This is described in Apple's FY 2019 Form 10-K:¹²¹

For third-party applications sold through the App Store, Mac App Store, TV App Store and Watch App Store and certain digital content sold through the Company's other digital content stores, the Company does not obtain control of the product before transferring it to the customer. Therefore, the Company accounts for such sales on a net basis by recognizing in Services net sales only the commission it retains.

¹¹⁸ APL-APPSTORE_04685284 - APL-APPSTORE_04685285 at '5284; APL-APPSTORE_04685286.xlsx.

¹¹⁹ APL-APPSTORE_04685286.xlsx.

¹²⁰ Grant Thornton, *Revenue from Contracts with Customers – Navigating the guidance in ASC 606 and ASC 340-0*, January 2019, pp. 230-232.

¹²¹ Apple Inc. Form 10-K (for fiscal year ending September 28, 2019), p. 34, 37. This revenue recognition policy is consistent with Financial Accounting Standards Board ("FASB") Accounting Standards Update No. 2014-09, *Revenue from Contracts with Customers (Topic 606)* ("ASC 606").

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81. My review of publicly available financial information for the companies below indicates that these companies similarly account for revenue from marketplace operations. The schedule below summarizes operating margins for the companies discussed in the following report sections, with the businesses detailed further in the following report sections.¹²²

Operating Margins of Marketplace Companies, 2013-2020

| | FY 2013 | FY 2014 | FY 2015 | FY 2016 | FY 2017 | FY 2018 | FY 2019 | FY 2020 |
|---|---------|---------|---------|---------|---------|---------|---------|---------|
| [2] eBay | 29.7% | 28.2% | 25.6% | 25.0% | 22.8% | 20.3% | 21.5% | 26.4% |
| [2] Etsy | 0.6% | -3.2% | -0.7% | 4.8% | 2.7% | 12.4% | 10.8% | 24.6% |
| [2] Rakuten (Internet Services segment) | 15.0% | 18.3% | 11.4% | 5.4% | 13.3% | 18.0% | 13.8% | 6.3% |
| [2] MercadoLibre | 32.5% | 21.6% | 21.4% | 21.4% | 4.6% | -4.8% | -6.7% | 3.2% |
| [3] Alibaba (Core Commerce segment) | N/A | N/A | 49.2% | 47.4% | 50.5% | 44.3% | 29.9% | 29.4% |

Notes and Sources:

- [1] Schedule 7.1 to Schedule 7.5.
- [2] Calendar year end financials.
- [3] Alibaba's fiscal year ends March 31. Information presented based on Alibaba's reporting for the associated fiscal year. For example, 2020 information would cover the period 4/1/2019 through 3/31/2020.

3.5.1 eBay, Inc.

82. eBay, Inc. ("eBay") is a third-party marketplace that provides a technology platform connecting its 19 million sellers to more than 185 million buyers of goods, in more than 190 markets worldwide.¹²³ eBay's platforms include the online marketplace at www.ebay.com, localized counterparts, off-platform businesses (in South Korea, Japan, and Turkey), and a suite of mobile apps.¹²⁴ The platforms can be accessed via laptop, iOS, and Android mobile devices and application programming interfaces.¹²⁵

83. eBay earns revenue from fees on successfully closed sales (between the buyers and sellers), first party advertising¹²⁶ and its managed payments platform for sellers, which was launched in the fourth quarter of 2020, following the expiration of an operating agreement with PayPal.¹²⁷ As a result, eBay's revenue model

¹²² Schedule 7.

¹²³ eBay, Inc. Form 10-K (for period ended December 31, 2020), pp. 4-5, 7.

¹²⁴ eBay, Inc. Form 10-K (for period ended December 31, 2020), pp. 4-5, 7.

¹²⁵ eBay, Inc. Form 10-K (for period ended December 31, 2020), pp. 4-5, 7.

¹²⁶ First party advertising is based upon data that eBay has directly collected from its buyers and sellers via use of cookies; Nathan Struik, "First-party data is key in a new era for digital advertising", Deloitte, <https://www2.deloitte.com/nl/nl/pages/customer-and-marketing/articles/first-party-data-is-key-in-a-new-era-for-digital-advertising-c.html>. Accessed May 28, 2021.

¹²⁷ eBay, Inc. Form 10-K (for period ended December 31, 2020), p. 5.

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is aimed at driving growth in gross merchandise volume (“GMV”),¹²⁸ managed payments, and advertising.¹²⁹ Trust in the platform is enhanced by offering of money-back and best-price guarantees, as well as authentication services for certain luxury products and certifications for refurbished items.¹³⁰

84. Revenue is recognized when control transfers to the customer, typically when items are sold, and consist principally of final value fees, feature fees, fees to promote listings, and listing fees from sellers.¹³¹ Listing fees are recognized when an item is sold or the contract expires.¹³² Fees for additional seller services are recognized when the performance obligation has been met.¹³³ Transaction revenues are reduced by incentives provided to customers.¹³⁴

85. Revenues for the year ended December 31, 2020, were \$10.27 billion, which represented 19% growth¹³⁵ from the fiscal year ended December 31, 2019, in continuing operations. Revenue in 2020 was driven by \$100 billion in GMV, of which 62% was generated outside the US.¹³⁶ 2020 revenue does not include \$100 million (roughly 1.5 months of revenues) from StubHub, which was sold on February 13, 2020, and \$980 million (roughly 6.5 months of revenue) from eBay’s Classifieds business, which was sold on July 20, 2020.¹³⁷ Revenue from these businesses was recorded as income from discontinued operations, and 2020 financial statements restate results for 2018 and 2019, removing revenue and operating expenses from these two businesses lines for reporting purposes.¹³⁸

86. In Schedule 7.1 I calculated operating margin data for eBay for the years 2013 through 2020. eBay’s operating margin in 2020 was 26.4%, up from 21.5% in 2019. Since the 2015 separation of PayPal, and the sale of Enterprise, eBay has reported its results as a single operating segment, comprised of its online marketplace, its localized counterparts, and its suite of mobile apps.¹³⁹ Results for 2013 through 2015 were

¹²⁸ eBay defines GMV as the total value of successfully closed transactions between users, regardless of whether the transaction was completed. eBay, Inc. Form 10-K (for period ending December 31, 2020), p. 7.

¹²⁹ eBay, Inc. Form 10-K (for period ended December 31, 2020), p. 5.

¹³⁰ eBay, Inc. Form 10-K (for period ended December 31, 2020), p. 5.

¹³¹ eBay, Inc. Form 10-K (for period ended December 31, 2020), p. 68. eBay reports revenue in accordance with ASC 606 (See, for example, eBay, Inc. Form 10-K (for period ended December 31, 2018), p. 34; See also eBay, Inc. Form 10-K (for period ended December 31, 2020), pp. 32, 68).

¹³² eBay, Inc. Form 10-K (for period ended December 31, 2020), p. 68).

¹³³ eBay, Inc. Form 10-K (for period ended December 31, 2020), p. 68.

¹³⁴ eBay, Inc. Form 10-K (for period ended December 31, 2020), p. 68.

¹³⁵ eBay, Inc. Form 10-K (for period ended December 31, 2020), pp. 32, 35.

¹³⁶ eBay, Inc. Form 10-K (for period ended December 31, 2020), p. 7.

¹³⁷ eBay, Inc. Form 10-K (for period ended December 31, 2020), p. 78.

¹³⁸ eBay, Inc. Form 10-K (for period ended December 31, 2020), pp. 32-33, 67, 76-78.

¹³⁹ eBay, Inc. Form 10-K (for period ended December 31, 2020), p. 80; eBay, Inc. Form 10-K (for period ended December 31, 2015), p. F-13.

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restated to reflect PayPal and Enterprise as discontinued operations.¹⁴⁰ The sale of StubHub and the Classifieds business in 2020 also resulted in a restatement of results for 2018, 2019, and 2020.¹⁴¹ As a result, the revenues and operating expenses considered in my computations reflect those of only the remaining single segment.

87. Pre-tax income from continuing operations for 2020 was \$3.4 billion and included \$0.7 billion in interest income. Net income was \$5.7 billion for 2020¹⁴² and includes a \$3.1 billion gain on the sale of StubHub and the Classifieds businesses.¹⁴³ eBay's market capitalization was \$34.4 billion as of December 31, 2020 (NasdaqGS:EBAY).¹⁴⁴

3.5.2 Etsy, Inc.

88. Etsy, Inc. ("Etsy") operates two online marketplaces (Etsy.com and Reverb.com), which connect 4.4 million active sellers and 81.9 million active buyers of unique products.¹⁴⁵ Etsy operates in seven core markets: United States, United Kingdom, Germany, Canada, Australia, France, and India.¹⁴⁶ The marketplace platforms can be accessed via laptop or mobile devices.¹⁴⁷ The platforms use translation technology to facilitate communication between buyers and sellers who do not speak the same language.¹⁴⁸ The platforms also use machine learning to improve the shopping experience and operate on Google Cloud.¹⁴⁹ Etsy's marketplaces provide a large assortment of unique, handmade, customized products across a wide range of retail categories.¹⁵⁰

89. Etsy earns revenue from fees on marketplace activities, which include listing an item for sale (\$0.20), completing transactions between the buyers and sellers (5% inclusive of shipping), an additional transaction

¹⁴⁰ eBay, Inc. Form 10-K (for period ended December 31, 2015), p. F-13.

¹⁴¹ eBay, Inc. Form 10-K (for period ended December 31, 2020), p. 80.

¹⁴² eBay, Inc. Form 10-K (for period ended December 31, 2020), pp. 62.

¹⁴³ eBay, Inc. Form 10-K (for period ended December 31, 2020), p. 62.

¹⁴⁴ Yahoo Finance, <https://finance.yahoo.com/quote/EBAY/key-statistics?p=EBAY>. Accessed May 28, 2021.

¹⁴⁵ Etsy, Inc. Form 10-K (for period ended December 31, 2020), pp. 1-6, 15, 72.

¹⁴⁶ Etsy, Inc. Form 10-K (for period ended December 31, 2020), pp. 1-6, 72.

¹⁴⁷ Etsy, Inc. Form 10-K (for period ended December 31, 2020), pp. 1-6, 72.

¹⁴⁸ Etsy, Inc. Form 10-K (for period ended December 31, 2020), pp. 1-6, 72.

¹⁴⁹ Etsy, Inc. Form 10-K (for period ended December 31, 2020), pp. 1-6, 72.

¹⁵⁰ Etsy, Inc. Form 10-K (for period ended December 31, 2020), pp. 1-6, 72.

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fee related to offsite advertising (12%-15%),¹⁵¹ and use of the Etsy Payments platform to process payments utilizing foreign currency payments (3.0%-4.5%).¹⁵²

90. Transaction fees and revenue from sale of items related to offsite advertising are recognized when items are sold.¹⁵³ Listing fees are recognized ratably over a 4-month period.¹⁵⁴ Fees for additional services are recognized when the performance obligations have been met.¹⁵⁵ Fees for payment processing are recognized net of refunds.¹⁵⁶

91. Etsy's revenues for the year ended December 31, 2020, were \$1.7 billion, which represented 110.9% growth from 2019.¹⁵⁷ Revenue in 2020 was driven by \$10.3 billion in gross merchandise sales ("GMS")¹⁵⁸ (up 106.7% from 2019), of which 38% was generated from buyers, sellers, or both outside the US, with 61% generated from transactions on mobile devices.¹⁵⁹

92. Etsy's net income for 2020 was \$349 million.¹⁶⁰ In Schedule 7.2, I analyzed operating margin data for Etsy for the fiscal years 2013 through 2020. Etsy reports its results as a single reportable segment, comprised of Etsy and Reverb operations, both of which are online marketplace businesses.¹⁶¹ Etsy's operating margins ranged from negative 3.2% in 2014 to 24.6% in 2020.¹⁶² Etsy's market capitalization was \$21.3 billion as of December 30, 2020 (NasdaqGS:ETSY).¹⁶³

3.5.3 Rakuten Group, Inc.

93. Rakuten Group, Inc., or Rakuten, Inc. ("Rakuten"), provides internet services internationally, from its headquarters in Japan.¹⁶⁴ The company's primary markets are Asia, the Americas, and Europe.¹⁶⁵ Rakuten

¹⁵¹ Offsite advertising is placed by Etsy on third-party platforms. Etsy, Inc. Form 10-K (for period ended December 31, 2020), p. 3.

¹⁵² Etsy, Inc. Form 10-K (for period ended December 31, 2020), pp. 1-6, 72. Etsy reports revenue in accordance with ASC 606 (See, for example, Etsy, Inc. Form 10-K (for period ended December 31, 2020), pp. 105).

¹⁵³ Etsy, Inc. Form 10-K (for period ended December 31, 2020), pp. 1-6, 72.

¹⁵⁴ Etsy, Inc. Form 10-K (for period ended December 31, 2020), pp. 1-6, 72.

¹⁵⁵ Etsy, Inc. Form 10-K (for period ended December 31, 2020), pp. 1-6, 72.

¹⁵⁶ Etsy, Inc. Form 10-K (for period ended December 31, 2020), pp. 105-106.

¹⁵⁷ Etsy, Inc. Form 10-K (for period ended December 31, 2020), p. 72.

¹⁵⁸ Etsy uses the metric gross merchandise sales ("GMS") defined as the dollar value of items sold in its marketplaces within a given period excluding shipping fees, and net of refunds associated with cancelled transactions (Etsy, Inc. Form 10-K (for period ended December 31, 2020), p. 75).

¹⁵⁹ Etsy, Inc. Form 10-K (for period ended December 31, 2020), pp. 5-6, 72, 100

¹⁶⁰ Etsy, Inc. Form 10-K (for period ended December 31, 2020), p. 100.

¹⁶¹ Etsy, Inc. Form 10-K (for period ended December 31, 2020), p. 109.

¹⁶² Schedule 7.2.

¹⁶³ Yahoo Finance, <https://finance.yahoo.com/quote/ETSY/key-statistics?p=ETSY>.

¹⁶⁴ Standard & Poor's Capital IQ Report on Rakuten Group, Inc.

¹⁶⁵ Standard & Poor's Capital IQ Report on Rakuten Group, Inc.

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reports its operations in three segments: Internet Services, Fintech, and Mobile.¹⁶⁶ Rakuten's Internet Services segment provides domestic (meaning principally within Japan) e-commerce sites, notably Rakuten Ichiba (an internet shopping mall), Rakuten Travel (online travel and reservation site), and Rakuten Rewards (a cash-back site), as well as sites selling a variety of other products.¹⁶⁷ Rakuten Internet Services sites are third-party marketplaces. Fees are based on gross transaction or merchandise value between buyer and seller site participants.

94. Rakuten prepares its financial information in accordance with IFRS.¹⁶⁸ Rakuten reports operating income separately for the Internet Services segment, with ¥820.1 billion in revenue reported for 2020, representing 10.3% growth from 2019 and 56.3% of total Rakuten revenue of ¥1.45 trillion.¹⁶⁹ Rakuten's 2020 Internet Services revenue was driven by ¥3 trillion in gross merchandise sales, up from 2019, and a record level for that business unit.¹⁷⁰ Internet Services profit was ¥40.1 billion, which was down 62.6% from 2019, principally due to the coronavirus's impact on Rakuten's Internet Services travel site.¹⁷¹ Rakuten posted losses of ¥114.2 billion and ¥31.9 billion in 2020 and 2019, respectively.¹⁷²

95. In Schedule 7.3, I analyzed operating margin data for the Rakuten Internet Services segment for 2013 through 2020. Unadjusted operating margins for Rakuten Internet Services range from 18.9% in 2014 to 4.9% in 2020 and average 14.0%. To adjust reported operating margins to make these figures comparable to other online marketplace companies, I first subtracted an allocation of intercompany revenue, based on the percentage of total segment revenue (including intercompany revenue) to total company revenue (including intercompany revenue).¹⁷³

¹⁶⁶ Standard & Poor's Capital IQ Report on Rakuten Group, Inc.; On their investor relations website, Rakuten provides an English language translation of what they refer to as Earnings Releases which are disclosure documents filed with the Tokyo Stock Exchange (the "Financial Disclosure Document"). All other disclosures related to its publicly traded stock are in Japanese, and results are reported in Japanese yen ("¥"). Rakuten Financial Disclosure Document for the fiscal year ended December 31, 2020, dated February 12, 2021, pp. 6-7, 20.

¹⁶⁷ Standard & Poor's Capital IQ Report on Rakuten Group, Inc.; Rakuten Financial Disclosure Document for the fiscal year ended December 31, 2020, dated February 12, 2021, p. 6.

¹⁶⁸ Rakuten Financial Disclosure Document for the fiscal year ended December 31, 2020, dated February 12, 2021, p. 1. Rakuten follows IFRS 15 – *Revenue from Contracts with Customers* ("IFRS 15") (Rakuten Annual Report (for period ending December 31, 2016), p. 160). IFRS 15 similarly requires the recognizing of revenue on a net basis when acting as an agent (IASB, *Clarifications to IFRS 15 – Revenue from Contracts with Customers*, April 2016, Appendix B – Application Guidance, B35B, B36, BC27F (found at pp. 7, 17)).

¹⁶⁹ Rakuten Financial Disclosure Document for the fiscal year ended December 31, 2020, dated February 12, 2021, p. 6

¹⁷⁰ Rakuten Financial Disclosure Document for the fiscal year ended December 31, 2020, dated February 12, 2021, p. 4.

¹⁷¹ Rakuten Financial Disclosure Document for the fiscal year ended December 31, 2020, dated February 12, 2021, p. 6.

¹⁷² Rakuten Financial Disclosure Document for the fiscal year ended December 31, 2020, dated February 12, 2021, p. 1.

¹⁷³ In its Financial Disclosure Documents, Rakuten subtracts intercompany revenue to reconcile total segment revenue to IFRS consolidated revenue.

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96. Next, from reported segment profit, I subtracted allocations of the following items: 1) intercompany profit, 2) amortization of intangible assets, 3) stock based compensation, and 4) “one-off” items,¹⁷⁴ based on the percentage of Internet Services revenue to total company revenue. The adjusted operating margins ranged from 18.3% in 2014 to 5.4% in 2016. Rakuten’s market capitalization was \$13.13 billion USD at December 30, 2020 (TSE:4755).¹⁷⁵

3.5.4 MercadoLibre, Inc.

97. MercadoLibre, Inc. (“MercadoLibre”) operates the largest online commerce marketplace in Latin America, connecting 132.5 million active buyers and sellers, in 18 countries.¹⁷⁶ The marketplace platform can be accessed via website or mobile app.¹⁷⁷ MercadoLibre’s related Fintech, Logistics, Advertising, Classifieds, and Online Storefront Solution businesses provide additional supporting services.¹⁷⁸

98. MercadoLibre earns revenue from fees on marketplace activities, and its revenue model depends on growth in gross market value (“GMV”), which also drives use of its Fintech solutions, consumer credit products, and Logistics solutions.¹⁷⁹ MercadoLibre’s revenue from its Commerce Services business line are mainly generated from transaction fees (flat fees and final value fees), shipping fees, classifieds fees, ad sales up-front fees, and fees from ancillary business related to transactions, while MercadoLibre also derives revenue from its Fintech line of business, Mercado Pago.¹⁸⁰

99. Despite its foreign operations and Buenos Aires headquarters, MercadoLibre is registered in Delaware and reports financial information in US dollars, in accordance with US GAAP.¹⁸¹ MercadoLibre’s reporting segments are geographic, but the company reports some detail on its Commerce and Fintech revenue streams.¹⁸²

¹⁷⁴ These items were only reported on the corporate level and are shown in the company’s Financial Disclosure Documents as a reconciliation from segment profit to IFRS operating income. What Rakuten describes as “one-off” items are such costs as office relocation, reorganization, asset impairment and tax provision changes which are considered operating expenses under GAAP.

¹⁷⁵ Yahoo Finance, <https://finance.yahoo.com/quote/RKUNF/key-statistics?p=RKUNF>. Accessed May 28, 2021.

¹⁷⁶ MercadoLibre, Inc. Form 10-K (for period ended December 31, 2020), pp. 9, 61.

¹⁷⁷ MercadoLibre, Inc. Form 10-K (for period ended December 31, 2020), p. 5

¹⁷⁸ MercadoLibre, Inc. Form 10-K (for period ended December 31, 2020), p. 65.

¹⁷⁹ MercadoLibre, Inc. Form 10-K (for period ended December 31, 2020), pp. 15, 37, 40.

¹⁸⁰ MercadoLibre, Inc. Form 10-K (for period ended December 31, 2020), pp. 7, 37. MercadoLibre will also refer to its Commerce Services line of business in its Form 10-K filings simply as “Commerce.”

¹⁸¹ MercadoLibre, Inc. Form 10-K (for period ended December 31, 2020), Item 15(a), p. 10.

¹⁸² MercadoLibre, Inc. Form 10-K (for period ended December 31, 2020), Item 15(a), pp. 31, 33.

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100. Revenues from MercadoLibre's Commerce business for 2020 were \$2.6 billion, which represented 90.1% growth from 2019.¹⁸³ Commerce revenue comprised over 64% of total 2020 revenue.¹⁸⁴ Commerce revenue in 2020 was driven by \$20.9 billion in GMV, up 49.5% from \$13.9 billion in 2019.¹⁸⁵ MercadoLibre's total revenue for 2020 was \$3.9 billion, up 73.0% from \$2.3 billion in 2019.¹⁸⁶

101. Operating income from total MercadoLibre operations was \$127.7 million for 2020, up from a loss of \$153 million in 2019.¹⁸⁷ Its net loss was \$707 thousand for 2020, an improvement from 2019's loss of \$172 million, including \$42 million in realized foreign currency losses during 2020.¹⁸⁸ Schedule 7.4 shows MercadoLibre's operating margins for 2013 through 2020, which ranged from 32.5% in 2013 to negative 6.7% in 2019. MercadoLibre's market capitalization was \$83.5 billion at December 31, 2020 (NasdaqGS:MELI).¹⁸⁹

3.5.5 Alibaba Group Holdings Limited

102. Alibaba Group Holding Limited ("Alibaba") provides e-commerce platforms and marketplaces in the People's Republic of China ("PRC") and internationally. Alibaba's Core Commerce segment is comprised of retail and wholesale commerce within the PRC, cross-border and global commerce, logistics services, local customer services, and others.¹⁹⁰ The Core Commerce 's platforms and marketplaces are accessible either via computer or mobile devices.¹⁹¹

103. The Core Commerce business earns revenue from fees on successfully closed transactions (between the buyers and sellers), customer management revenue (such as pay-for-performance marketing services), membership fees, and logistics fees.¹⁹² As a result, Alibaba's revenue model depends on growth in GMV,¹⁹³

¹⁸³ MercadoLibre, Inc. Form 10-K (for period ended December 31, 2020), Item 15(a), p. 33. MercadoLibre reports revenue in accordance with ASC 606 (See, for example, MercadoLibre, Inc. Form 10-K (for period ended December 31, 2018, p. 41)).

¹⁸⁴ MercadoLibre, Inc. Form 10-K (for period ended December 31, 2020), Item 15(a), p. 33. I computed the percentage of total revenue attributable to Commerce from revenue data shown (\$2,559,770/\$3,973,465 = 64.4%).

¹⁸⁵ MercadoLibre, Inc. Form 10-K (for period ended December 31, 2020), p. 32.

¹⁸⁶ MercadoLibre, Inc. Form 10-K (for period ended December 31, 2020), Item 15(a), p. 5. I computed growth from 2019 and 2020 revenue data shown.

¹⁸⁷ MercadoLibre, Inc. Form 10-K (for period ended December 31, 2020), Item 15(a), p. 5.

¹⁸⁸ MercadoLibre, Inc. Form 10-K (for period ended December 31, 2020), Item 15(a), p. 5.

¹⁸⁹ Yahoo Finance, <https://finance.yahoo.com/quote/MELI/key-statistics?p=MELI>.

¹⁹⁰ Alibaba Group Holding Limited Form 20-F (for fiscal year ended March 31, 2020) pp. 71-72.

¹⁹¹ Alibaba Group Holding Limited Form 20-F (for fiscal year ended March 31, 2020) pp. F-17, F-29.

¹⁹² Alibaba Group Holding Limited Form 20-F (for fiscal year ended March 31, 2020) pp. F-26-F29.

¹⁹³ Alibaba defines GMV as the value of confirmed orders of products and services on their marketplaces regardless of whether the buyer and seller consummate the transaction and includes buyer-paid shipping (Alibaba Group Holding Limited Form 20-F (for fiscal year ended March 31, 2020) p. 12 (iv)).

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which topped \$1 trillion USD (6.5 trillion in RMB) in the fiscal year ended March 31, 2020.¹⁹⁴ GMV and related transaction volume is also related to the number of active customers and users, which were 726 million and 846 million, respectively in the fiscal year ended March 31, 2020, reflecting steady growth over the past year.¹⁹⁵

104. Alibaba is registered in the Cayman Islands and incorporated in Hong Kong, but reports its financials in accordance with US GAAP, denominated in renminbi (“RMB”) for historical periods, and both RMB and US dollars for the most recent period.¹⁹⁶ Revenue is recognized when performance obligations are satisfied—typically when items are sold. Core Commerce revenues for the fiscal year ended March 31, 2020, were \$61.5 billion, which represented a 35% increase over FY 2019 revenue and 86% of Alibaba’s total revenue of \$72.0 billion.¹⁹⁷

105. In Schedule 7.5 I analyzed Alibaba’s Core Commerce’s operating margins for the fiscal year ending March 31, 2015, through the fiscal year ending March 31, 2020. Unadjusted operating margins ranged from 57.8% in 2015 to 31.8% in 2020 and averaged 47.0%. After adjusting for unallocated corporate expenses¹⁹⁸ (allocated pro-rata based on Alibaba Core Commerce’s share of total revenue), operating margins ranged between 49.2% and 29.4%.¹⁹⁹ Alibaba’s market capitalization was \$508.3 billion as of March 31, 2020, and \$650 billion as of December 31, 2020 (NYSE:BABA).²⁰⁰

Submitted this 1st day of June, 2021.


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¹⁹⁴ Alibaba Group Holding Limited Form 20-F (for fiscal year ended March 31, 2020) pp. ii, 70. Alibaba reports revenue in accordance with ASC 606 (See, for example, Alibaba Group Holding Limited Form 20-F (for fiscal year ended March 31, 2020), 160, F-24, F-25).

¹⁹⁵ Alibaba Group Holding Limited Form 20-F (for fiscal year ended March 31, 2020) p.8.

¹⁹⁶ Alibaba Group Holding Limited Form 20-F (for fiscal year ended March 31, 2020) pp. F-2, F-18.

¹⁹⁷ Alibaba Group Holding Limited Form 20-F (for fiscal year ended March 31, 2020) pp. 130, 148.

¹⁹⁸ Unallocated expenses included corporate administrative costs and other miscellaneous items not allocated to segments, Alibaba Form 6-K (for period ended March 31, 2020), pp. 18-19.

¹⁹⁹ See Schedule 2.5.

²⁰⁰ Yahoo Finance, <https://finance.yahoo.com/quote/BABA/key-statistics?p=BABA>.



APPENDIX A. DOCUMENTS AND INFORMATION RELIED UPON

The following information was relied upon in the preparation of this report.

Pleadings and Briefs

- Plaintiffs' Consolidated Class Action Complaint For Violations of the Sherman Act and California Unfair Competition Law, September 30, 2019

Documents With Bates Numbers

- APL-APPSTORE_04685284 - APL-APPSTORE_04685285
- APL-APPSTORE_04685286.xlsx
- APL-APPSTORE_08856866.xlsx
- APL-APPSTORE_08883133 - APL-APPSTORE_08883332
- APL-APPSTORE_09806205.xlsx
- APL-APPSTORE_09814097.xlsx
- APL-APPSTORE_09814098.xlsx
- APL-APPSTORE_09814099.xlsx
- APL-APPSTORE_10176241 - APL-APPSTORE_10176337
- APL-APPSTORE_10187823 - APL-APPSTORE_10187995
- APL-EG_08926407 - APL-EG_08926408
- APL-EG_08926412 - APL-EG_08926433
- APL-EG_10015140 - APL-EG_10015251

Documents Without Bates Numbers

- Alibaba Group Holding Limited Form 20-F (for fiscal year ended March 31, 2016)
- Alibaba Group Holding Limited Form 20-F (for fiscal year ended March 31, 2017)
- Alibaba Group Holding Limited Form 20-F (for fiscal year ended March 31, 2018)
- Alibaba Group Holding Limited Form 20-F (for fiscal year ended March 31, 2019)
- Alibaba Group Holding Limited Form 20-F (for fiscal year ended March 31, 2020)
- Alibaba Group Holding Limited Form 6-K (for fiscal year ended March 31, 2020)
- Apple Inc. Form 10-K (for period ended September 26, 2020)
- Apple Inc. Form 10-K (for period ended September 28, 2019)
- Apple Inc. Form 10-K (for period ended September 29, 2018)
- Deposition of Eddy Cue, February 8, 2021
- Deposition of Mark Rollins, February 11, 2021
- eBay, Inc. Form 10-K (for period ended December 31, 2015)
- eBay, Inc. Form 10-K (for period ended December 31, 2016)
- eBay, Inc. Form 10-K (for period ended December 31, 2017)
- eBay, Inc. Form 10-K (for period ended December 31, 2018)
- eBay, Inc. Form 10-K (for period ended December 31, 2019)
- eBay, Inc. Form 10-K (for period ended December 31, 2020)
- Etsy, Inc. Form 10-K (for period ended December 31, 2015)
- Etsy, Inc. Form 10-K (for period ended December 31, 2016)
- Etsy, Inc. Form 10-K (for period ended December 31, 2017)
- Etsy, Inc. Form 10-K (for period ended December 31, 2018)
- Etsy, Inc. Form 10-K (for period ended December 31, 2019)
- Etsy, Inc. Form 10-K (for period ended December 31, 2020)
- MercadoLibre, Inc. Form 10-K (for period ended December 31, 2015)
- MercadoLibre, Inc. Form 10-K (for period ended December 31, 2016)
- MercadoLibre, Inc. Form 10-K (for period ended December 31, 2017)

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- MercadoLibre, Inc. Form 10-K (for period ended December 31, 2018)
- MercadoLibre, Inc. Form 10-K (for period ended December 31, 2020)
- MercadoLibre, Inc. Form 10-K/A (for period ended December 31, 2019)
- Rakuten, Inc. Annual Report (for period ending December 31, 2016)
- Rakuten, Inc. Financial Disclosure Document for the fiscal year ended December 31, 2013
- Rakuten, Inc. Financial Disclosure Document for the fiscal year ended December 31, 2014
- Rakuten, Inc. Financial Disclosure Document for the fiscal year ended December 31, 2015
- Rakuten, Inc. Financial Disclosure Document for the fiscal year ended December 31, 2016
- Rakuten, Inc. Financial Disclosure Document for the fiscal year ended December 31, 2017
- Rakuten, Inc. Financial Disclosure Document for the fiscal year ended December 31, 2018
- Rakuten, Inc. Financial Disclosure Document for the fiscal year ended December 31, 2019
- Rakuten, Inc. Financial Disclosure Document for the fiscal year ended December 31, 2020
- Standard & Poor's Capital IQ Report on Rakuten Group, Inc.
- Trial transcript, testimony of Tim Cook, *Epic Games, Inc. v. Apple Inc.*, May 21, 2021

Case Opinions and Reference Materials

- Brinig, Brian P., *Finance & Accounting for Lawyers* (2016; Business Valuation Resources, LLC)
- EY “Financial Reporting Developments, A Comprehensive Guide – Segment Reporting – ASC 280,” revised April 2020
- FASB Accounting Standards Update No. 2014-09, *Revenue from Contracts with Customers (Topic 606)*
- FASB Accounting Standards Update No. 2015-01, *Income Statement – Extraordinary and Unusual Items (Subtopic 225-20)*
- FASB ASC 220-10 – *Income Statement-Reporting Comprehensive Income*
- Grant Thornton, *Revenue from Contracts with Customers – Navigating the guidance in ASC 606 and ASC 340-0*, January 2019
- IASB, *Clarifications to IFRS 15 – Revenue from Contracts with Customers*, April 2016
- IFRS 15 – *Revenue from Contracts with Customers*
- Reg S-X, 17 CFR Part 210.5-03

Websites

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- <https://appleinsider.com/articles/19/01/09/when-apple-introduced-the-iphone-on-jan-9-2007-it-was-the-ultimate-computer-for-the-rest-of-us>
- <https://asc.fasb.org/>
- <https://companiesmarketcap.com/>
- <https://finance.yahoo.com/quote/BABA/key-statistics?p=BABA>
- <https://finance.yahoo.com/quote/EBAY/key-statistics?p=EBAY>
- <https://finance.yahoo.com/quote/ETSY/key-statistics?p=ETSY>
- <https://finance.yahoo.com/quote/MELI/key-statistics?p=MELI>
- <https://finance.yahoo.com/quote/RKUNF/key-statistics?p=RKUNF>
- <https://www.accountingfoundation.org/jsp/Foundation/Page/FAFBridgePage&cid=1176164538898>
- <https://www.apple.com/app-store/>
- <https://www.businessofapps.com/data/apple-statistics/>
- <https://www.gaapdynamics.com/insights/blog/2016/03/29/timesaving-tricks-for-accounting-principles-and-the-fasb-codification/>
- <https://www.ifrs.org/>
- <https://www.investopedia.com/articles/active-trading/111115/why-all-worlds-top-10-companies-are-american.asp>
- <https://www.loc.gov/rr/business/businesshistory/April/apple.html>

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- <https://www.sec.gov/reportspubs/investor-publications/investorpubsbegfinstmguidehtm.html>
- <https://www.youtube.com/watch?v=x3sg8b5iXO4>
- <https://www2.deloitte.com/nl/nl/pages/customer-and-marketing/articles/first-party-data-is-key-in-a-new-era-for-digital-advertising-c.html>



APPENDIX B. QUALIFICATIONS OF CHRISTIAN TREGILLIS, CPA, ABV, CFF, CLP

Christian Tregillis is a partner in Hemming Morse's Los Angeles office. In this role he analyzes financial, accounting, economic, statistical, and market issues, primarily relating to disputes, valuations, and the negotiation of license agreements covering the use of intellectual property. He has participated in mediations and has testified in over 120 matters, in state and federal courts and arbitration venues, including approximately 50 trials/arbitrations. His testimony has been almost exactly evenly split between plaintiffs/claimants and defendants/respondents.

Mr. Tregillis has spent approximately 30 years performing financial consulting and investigations. Before joining Hemming Morse he was the leader of the Damages, Valuation & IP practice area globally for LECG. Prior to that he led the Forensic Accounting & Litigation Consulting group in the Western U.S. for Kroll, Inc., following 11 years at "big four" accounting firms, including as a Partner in the Financial Advisory Services practice at Deloitte & Touche. Early in his career he spent two years at First Interstate Bank, where he helped design a portfolio hedging system to manage interest rate exposure, valued acquisition targets and lines of business, and statistically forecasted loan losses.

Mr. Tregillis is a past Chair of the Economic Damages Task Force of the American Institute of Certified Public Accountants, for which he has authored practice aids and taught on the calculation of economic damages and related topics. He is also a past Chair of the Economic Damages Section and a current member of the Steering Committee of the Forensic Services Section of the California Society of Certified Public Accountants. In addition, he is a co-chair of the Standards, Admissions, and Recertification Committee of the Certified Licensing Professionals, within the Licensing Executives Society. From 2003 to 2007 he was on the Board of Trustees of the Center for Law in the Public Interest and served as the Center's Chief Financial Officer.

EDUCATION AND CERTIFICATIONS

- Occidental College, A.B. Economics with Distinction
- University of Chicago Graduate School of Business, M.B.A. Finance and Accounting
- Certified Public Accountant, Licensed in California and Certified in Illinois
- Accredited in Business Valuation, American Institute of Certified Public Accountants
- Certified in Financial Forensics, American Institute of Certified Public Accountants
- Certified Licensing Professional, Licensing Executives Society

SELECT ENGAGEMENTS

- ***Investor in orchid growing business v. manager of business.*** Plaintiff, a Chinese company that invested \$1 million in defendant's orchid growing business, was informed after the business had been operating for 18 months that the investment had been lost, the business was being shut down, and the investor would not be paid for the invoiced equipment and flowers that had been provided to defendant. Mr. Tregillis quantified amounts invested by plaintiff as part of a restitution calculation, as well as looking at the company's transactions and history across eight bank accounts in the US and in Asia and between several related parties as the company's finances were drained. Mr. Tregillis testified at trial as to alter-ego issues and inaccuracies in company financial statements.
- ***Athlete v. business advisor.*** A well-known and successful athlete in Las Vegas and his business advisor parted ways after two decades of working together. As part of the dissolution of their partnership and a dispute between the parties, Mr. Tregillis analyzed transactions and the operations of the dozens of businesses the parties had started, purchased, licensed, and in some cases sold, including a charitable foundation, partial ownership in a casino, a night club, and a talent agency. Mr. Tregillis and his team evaluated accounting improprieties and the value of the entities for purposes of the dissolution and related litigation.

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- ***Dispute between founders of clothing brand/company.*** The founders started a popular line of clothing and after several years, one of the founders sought to exit the business and sell his shares to the remaining shareholders/founders. Mr. Tregillis calculated the price as defined in the agreement between the parties, for purposes of the buyout, as well as analyzing whether the company's accounting had been properly performed, and valued the business without the agreement's terms constraining the calculation. The matter settled during an arbitration between the parties.
- ***Investigation of claims of fraud and malpractice of counsel and financial advisor of Native American tribe.*** After concerns arose about the manner in which the tribe's advisors and counsel were conducting themselves and representing the tribe, Mr. Tregillis and his team investigated the accounting of the casino, hotel and other operations, and took an interim financial management role for the tribe as it replaced its advisors.
- ***Due diligence for a potential buyer of a gaming vessel business.*** Mr. Tregillis and his team performed an investigation of the business, which took customers on boats out to neutral waters near Florida, and upon arrival hosted gambling. The analysis including looking at internal controls and concerns about money laundering, as well as the impact on value.
- ***Property owner v. co-owner/property management company.*** Plaintiff alleged that defendant, as co-owner of the property in question and as property manager, had mismanaged the property and fraudulently represented the operations of the partnership of which the two parties were owners. Mr. Tregillis analyzed the accounting of the partnership to evaluate the claim.
- ***Valuation of casino night club ownership interest.*** After an investigation into whether a Las Vegas casino night club's management company had hidden revenues from the IRS, several minority owners sought to sell their interests in the night club. Mr. Tregillis investigated accounting issues pertaining to the night club's historical financial statements, including underreporting of revenues and profits, and valued the ownership interests. He also negotiated with the buyer, which led to a sale by the minority owners.
- ***Real estate partner v. real estate partner.*** Plaintiff alleged that defendant (his brother) had misappropriated partnership monies and value through transactions and misuse of partnership assets. Mr. Tregillis led an investigation into the accounting issues and flow of funds in order to facilitate a dissolution of the partnership and splitting of the assets; he was deposed on his findings and testified at a hearing and at trial.
- ***Purchaser of packaging business v. seller of packaging business.*** After implementing a new accounting software program, the seller of the business provided the company's financial statements (generated with the new accounting software) to the buyer, with the purchase price determined as a multiple of the represented historical earnings. Mr. Tregillis and his staff prepared the closing balance sheet after the transaction had closed, and in the process his investigation turned up problems in the accounts receivable, inventories, and other operations, all of which were traced to the flawed implementation of the new software. The analysis also included a tracing of millions of dollars of transactions across dozens of accounts in an attempt to uncover what had happened with the represented income, as well as a calculation of the impact of the faulty financial program and inaccurate financials on the purchase price and the earning power of the company in the future.
- ***Media company adv. individuals.*** The media company entered into a joint venture to promote Latin American concerts and other events in the U.S., with defendant individuals selling their ownership rights in the company, but agreeing to continue in an exclusive managerial role. The media company terminated the individuals after discovering that they had engaged in allegedly competitive acts and the theft of trade secret information. Mr. Tregillis testified in deposition and an arbitration as to damages, alter-ego issues regarding the relationship between the individuals and their new companies, and the impacts of the perceived lack of internal controls at the company surrounding the co-presidents and their handling of concert revenue, cash management and self-dealing.

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- **Purchaser of logistics/storage company v. seller of logistics/storage company.** Plaintiff purchased a company that provided logistics and storage facilities to importers, but later found that there had been inaccuracies in the financial information provided to plaintiff, which information had been used in decisions to purchase the company and setting the price. Mr. Tregillis and his staff analyzed the accounting impact on the income statements from different time periods, as well as balance sheet accounts and the purchase price paid. Mr. Tregillis was deposed and testified in an arbitration.
- **Dispute between co-owners of restaurants.** The parties jointly owned restaurants, as well as owning restaurants on their own. Each believed that the other had misappropriated jointly owned assets and engaged in accounting fraud. Mr. Tregillis was retained by both sides to investigate the accounting issues, to facilitate a dissolution of the parties' jointly owned LLCs.
- **Flash memory and technology company v. accounting firm.** Plaintiff was the licensee pursuant to a license agreement covering flash memory and related products. Defendant performed a royalty examination to determine whether plaintiff had paid amounts owed to the licensor under the agreement. After defendant issued a report that dramatically overstated the amount that was ultimately determined by a court to be due, plaintiff lost its business relationship with the licensor, which plaintiff alleged was a result of a faulty royalty examination by defendant. Mr. Tregillis testified at trial about the royalty examination performed by defendant, as well as damages resulting from the faulty royalty examination.
- **Estate of musician v. former counsel for estate.** The dispute related to the sale by plaintiff of rights to the music of his son – one of the most commercially successful and influential guitarists of his era. Defendant acted as counsel to plaintiff in the sale, even though defendant also indirectly owned the company which purchased the rights. Mr. Tregillis managed the forensic accounting to trace the flow and quantification of funds after the transaction per license agreements and other arrangements in place at that time, in addition to the valuation of the rights to the copyrighted music as of the date of sale in the early 1970s.
- **Real estate investor adv. real estate investor.** Each of the parties alleged that the other had perpetrated a fraud in certain transactions in which the individuals were joint owners of limited liability companies that owned land and other real estate assets. One of the issues in dispute was whether one of the owners paid fair market value rent for his residence, which property was owned by one of the LLCs. Mr. Tregillis evaluated accounting issues pertaining to each party's claims; he provided deposition testimony before one of the matters was summarily adjudicated by the judge. In the counterclaim, Mr. Tregillis and two other accountants performing a final accounting and a value of the owners' shares in the LLCs, to facilitate a buyout; Mr. Tregillis testified in a hearing on each of these issues.
- **Founder of textile manufacturing company adv. founder of textile manufacturing company.** The two parties started a textile manufacturing company in the Los Angeles fashion district, and after 20 years in business, they decided to part ways. Mr. Tregillis valued the business and the ownership interests (two 50% interests) for the purposes of a buyout by one founder of the other. While Mr. Tregillis was hired by one of the founders individually, ultimately Mr. Tregillis's analysis was used by both of the parties in the purchase, and also for tax purposes.

PROFESSIONAL ACTIVITIES, GROUPS & AFFILIATIONS

- California Society of Certified Public Accountants
 - Past Chair and current member, Economic Damages Section
 - Member, Steering Committee for Forensic Services
 - Member, Financial Literacy Committee
 - Member, Government Outreach Committee
 - Member, CalCPA Council

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- American Institute of Certified Public Accountants
 - Past Chair and member, Economic Damages Task Force
 - Past member, Forensic & Litigation Services Committee
- Certified Licensing Professionals
 - Past Co-Chair, Standards, Admissions, and Recertification Committee
 - Past Co-Chair, Exam Development and Maintenance Committee

PUBLICATIONS, PRESENTATIONS & SPEAKING

- *Income Statement Analysis*. Practicing Law Institute, *Basics of Accounting and Finance* (September, 1998).
- *The Use of Outside Accountants*. Practicing Law Institute course *Basics of Accounting and Finance* (September, 1998) – instructor and chapter author, "Overview of Services Provided by CPAs."
- *Evaluating IP Lost Profits: From Panduit to Grain Processing*. California Society of CPAs publication, *The Witness Chair* (Summer, 2001).
- *The Valuation of Trademarks*. American Intellectual Property Lawyers Association Annual Meeting (October, 2001).
- *The Valuation of Intellectual Property*. San Diego Institute of Intellectual Property Lawyers Association Meeting (April, 2002).
- *Issues to Consider in Evaluating a Reasonable Royalty*. American Institute of CPAs publication, *CPA Expert* (Summer, 2002).
- *IP Through the Life of Your Business*. The Phelps Group: IP Summit (July, 2002).
- *The Use of Multiple Regression in Commercial Litigation*. California Society of CPAs, Economic Damages Section Meeting (October, 2002).
- Review of *Valuation for Financial Reporting: Intangible Assets, Goodwill, and Impairment Analysis, SFAS 141 & 142* (by Michael J. Mard, et al.). American Institute of CPAs publication, *CPA Expert* (Winter 2003).
- *The Use of Surveys and Statistics in Litigation*. California Society of CPAs, California Society of CPAs, *Advanced Business Litigation Institute* (May, 2003).
- *Current Issues in IP Litigation Damages*. California Society of CPAs, California Society of CPAs, *Advanced Business Litigation Institute* (May, 2003).
- *The Role of the Financial Expert in Trade Secret Litigation*. California Society of CPAs, Economic Damages Section Meeting (July, 2003).
- *Notes and Numbers: Does the Data on Declining Music Sales "Sing" In an Age of Music Downloading?* Los Angeles County Bar Assoc., Music Section Meeting (December, 2003).
- *Peer to Peer File Sharing Suits: What's Next?* California Society of CPAs publication, *The Witness Chair* (Winter, 2004).
- *AICPA Statement on Standards for Business Valuation*. California Society of CPAs, Economic Damages Section Meeting (February, 2004).
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- *Assessing and Proving Damages from Infringement, Program Moderator.* University of Southern California Intellectual Property Institute (May, 2004).
- *Daubert Case Law.* American Institute of CPAs, Conference on Fraud and Litigation Services (September, 2004).
- *Cost Shifting and Electronic Discovery: How Experts Can Help Clients Minimize Costs.* California Society of CPAs publication, *The Witness Chair*, with Rachel Laybourn (Fall 2004).
- *Valuation of Intellectual Property.* California State Bar Intellectual Property Law Section, *Intellectual Property Institute* (November, 2004).
- *From Qualifications to Unsupported Opinions: A Review of Motions to Exclude Financial Experts.* California Society of CPAs, Economic Damages Section Meeting (February, 2005).
- *Challenges for the Intellectual Property Damages Expert: Apportionment of Value, Multiple Patent Litigation, Price Erosion, and the Entire Market Value Rule.* California Society of CPAs, Advanced Business Litigation Institute (May, 2005).
- *You've Been Sued for Infringement – Now What?* University of Southern California Gould School of Law, *Intellectual Property Institute* (May, 2005).
- *Fraud Identification, Protection and Management.* Financial Executives International, Seattle Section meeting (September, 2005).
- *Spending Your IP Dollars Wisely in Foreign Markets.* AeA Oregon Section Meeting (December, 2005).
- *Differences Between Lost Profits and Diminution in Business Value as a Measure of Damages.* American Institute of CPAs publication, BV-FLS Section Update, with Michael Thompson (January, 2006).
- *Practice Aid on Damages in Intellectual Property Disputes* (contributor/editor). American Institute of CPAs publication (February, 2006).
- *The Top 10 Things About IP Every Technology Manager Needs to Know.* Mentor Graphics User2User Conference (May, 2006).
- *Financing Issues in Managing Intellectual Property Risk.* Risk & Insurance Management Society, Los Angeles Chapter Meeting (June, 2006).
- *Awards for Future Damages in Patent Infringement Cases after eBay v. MercExchange.* American Bar Association, *IPL Newsletter* (Summer, 2006, Volume 24, Issue 4).
- *The Forensic Accountant's Role in Claims of Alter-Ego, Successor Liability, and Fraudulent Transfers.* California Society of CPAs, Economic Damages Section Meeting (October, 2006).
- *The Financial Expert Post-eBay: The Four-Factor Test and Future Royalties.* Law Seminars International, *Calculating and Proving Patent Damages* (February, 2007).
- *Econometric Analysis and Multiple Regression.* Chapter in *Litigation Services Handbook: The Role of the Financial Expert, (Fourth Edition)*, with Dr. Mohan Rao, edited by Peter Frank, Michael Wagner and Roman Weil (February, 2007); also in the supplement to the third edition.
- *Patent Rights in the Post-eBay Era: What You Need to Survive.* University of Southern California Gould School of Law, *Intellectual Property Institute* (March, 2007).
- *Current Issues in Patent Damages.* IQPC, *3rd Patent Strategies* (March, 2007).
- *Conducting Internal Corporate Investigations.* Association of Corporate Counsel of America, Southern California quarterly meeting (April, 2007).

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- *Managing Digital Intellectual Property Risk.* Automotive News Webinar (April, 2007).
- *Protecting Your Intellectual Property: Essential Strategies to Building a Successful IP Protection Program.* Microsoft CSO Summit (April, 2007).
- *Top 10 Reasons Financial Experts Get Excluded and What to Do About It.* American Institute of Certified Public Accountants National Conference on Fraud and Litigation Services (September, 2007).
- *Forensic Accounting Investigations and Valuation Analysis in an XBRL World.* 16th XBRL International Conference (December, 2007).
- *The CPA's Handbook on Fraud and Commercial Crime Prevention.* American Institute of Certified Public Accountants publication (lead author – 2008 update) (May, 2008).
- *Forensic Investigation of Financial Statement Fraud: Case Studies.* Florida Institute of Certified Public Accountants, *Accounting and Business Expo* (May, 2008).
- *Discovery and Production Issues.* American Institute of Certified Public Accountants, *National Conference on Fraud and Litigation Services* (September, 2008).
- *Quanta, Exhaustion and Patent Damages.* IP360 (October, 2008).
- *Discount Rates and the Time Value of Money in Litigation.* California Society of CPAs, Economic Damages Section Meeting (May, 2009).
- *Understanding, Developing & Managing Forensic Engagements.* American Institute of Certified Public Accountants Webinar, "Creating a Niche Forensic Practice Series" (February, 2010).
- *Economic Damages: An Overview.* American Institute of Certified Public Accountants Webinar, "Creating a Niche Forensic Practice Series" (May, 2010).
- *Reasonable Royalties and Apportionment of Value: Part 2 (Royalty Stacking).* California Society of Certified Public Accountants and Los Angeles Intellectual Property Lawyers Association, *IP Damages Institute* (November, 2010).
- *Hot Issues in Reasonable Royalty Patent Damages* (topics led: *The Use of Surveys and Demand Curves*, and *The Use of Settlement Agreements*). University of Southern California Gould School of Law, *Intellectual Property Institute* (March, 2011).
- *Differences Between Lost Profits and Diminution in Business Value as a Measure of Damages.* American Institute of Certified Public Accountants, *FVS Consulting Digest* (Issue 1, January 2012).
- *Discount Rates, Risk, and Uncertainty in Economic Damages Calculations.* American Institute of Certified Public Accountants Practice Aid (April, 2012).
- *Discount Rates, Risk, and Uncertainty in Economic Damages Calculations.* American Institute of Certified Public Accountants Webinar (July, 2012).
- *Discount Rates, Risk, and Uncertainty in Economic Damages Calculations; Attaining Reasonable Certainty in Economic Damages Calculations.* California Society of Certified Public Accountants Forensic Services Section Meeting (October, 2012).
- *Financial Forensic Accounting Education Series: Applicable Professional Standards.* (Course Author) American Institute of Certified Public Accountants (May, 2013).
- *Interpreting and Reconciling Recent Case Decisions: Raising the Bar on Lost Profits, Business Valuation and Intellectual Property Damages.* American Institute of Certified Public Accountants Forensic and Valuation Services Conference (November, 2013).

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- *Reasonable Certainty Round 2: An Inside Look at the Findings of the Damages Task Force - Reasonable Certainty for New or Unestablished Businesses.* American Institute of Certified Public Accountants Forensic and Valuation Services Conference (November, 2013).
- *Reasonable Certainty in Economic Damages Calculations.* California Society of Certified Public Accountants Forensic Services Section Meeting (February, 2015).
- Patent Damages Roundtable. University of Southern California Gould School of Law, Intellectual Property Institute (March, 2015).
- *Reasonable Certainty in Economic Damages Calculations.* American Institute of Certified Public Accountants Practice Aid (August, 2015).
- *IP Remedies Roundtable and Workshop.* University of Southern California Gould School of Law, Intellectual Property Institute (March, 2017).
- *Reasonable Certainty and the New AICPA Practice Aid.* Kentucky Society of Certified Public Accountants, Forensic Accounting and Litigation Conference (August, 2017).
- *Prejudgment Interest.* Chapter in Lost Profits Damages: Principles, Methods, and Applications, with Greg Pinsonneault, edited by Everett Harry and Jeffrey Kinrich (October, 2017).
- *Linking Causation to Damages.* American Institute of Certified Public Accountants, Forensic and Valuation Services Conference (November, 2017).
- *Calculating Lost Profits.* American Institute of Certified Public Accountants Practice Aid (March, 2019).
- *Economic Damages Update: Reasonable Certainty, Lost Profits, and Intellectual Property.* American Institute of Certified Public Accountants Webinar (May, 2019).
- *Unauthorized Use of Trademarks and Copyrights in Social Media and User-Generated Content: Where are the Boundaries and Who's Responsible?* University of Southern California Gould School of Law, Intellectual Property Institute (September, 2020).
- *Revenue Estimation Case Study: Regression,* Association of International Certified Public Accountants, Forensic & Valuation Services Conference (November, 2020).
- *Revenue Estimation Case Study: Benchmarking and Yardstick Method,* Association of International Certified Public Accountants, Forensic & Valuation Services Conference (November, 2020).
- *The Alter-Ego investigation.* California Society of Certified Public Accountants 4N6: Fraud and Forensic Conference (April, 2021).
- Author of quarterly "AICPA Update" (2006-2009), and "Economic Damages Section Update" (2008-2010). California Society of CPAs publication, *The Witness Chair*.
- Research assistant in the publication of textbooks in Microeconomics, Macroeconomics and Econometrics.
- Instructor, the Conviser Duffy (Becker) CPA Review Course.

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APPENDIX C. TESTIMONY HISTORY

Testified for counsel for underlined party/parties. ** indicates matters that involved counterclaims.

| Plaintiff/Claimant | Defendant/Respondent | Venue | Deposition | Trial/ Arbitration | Other Hearing |
|---|--|---|------------|-----------------------|------------------|
| J Beverly Hills, Inc. | <u>JBH Europe B.V., et al.</u> ** | US District Court – Central District of California | X | | |
| <u>Michael Lavigne, et al.</u> | Herbalife, Inc. | US District Court – Central District of California | X | | |
| <u>Pacific Packaging Concepts, Inc.</u> | Nutrisystem, Inc., et al. | US District Court – Central District of California | X | | |
| Air Transport Association of America d/b/a Airlines For America | <u>Maura Healey</u> | US District Court – District of Massachusetts | X | | |
| <u>Wiley EDU, LLC</u> | Loyola University New Orleans ** | AAA Arbitration | | X | |
| <u>Lisa Temmerman</u> | Robert Temmerman | California Superior Court – Santa Clara County | | | X |
| Defense Nutrition, et al. | <u>Eagle Mist Corporation, et al.</u> ** | California Superior Court - Los Angeles County | X | | |
| <u>Simone Giacometti</u> | Puls Technologies, Inc., et al. | California Superior Court - San Diego County | X | X | X |
| Food 4 Less of California, Inc. | <u>3650 Olympic LP, et al.</u> | California Superior Court - Los Angeles County | X | | |
| Leaf Trading Cards, LLC | <u>The Upper Deck Company</u> ** | US District Court - Northern District of Texas | X | | |
| Do by Laboratories Licensing Corporation | <u>Adobe, Inc.</u> ** | US District Court - Northern District of California | X | | |
| TNF Gear, et al. | <u>VF Outdoor, LLC</u> ** | US District Court - Northern District of California | X | | |
| American Airlines, Inc. | <u>Transport Workers Union of America, AFL-CIO, et al.</u> | US District Court - Northern District of Texas | | X | |

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| Plaintiff/Claimant | Defendant/Respondent | Venue | Deposition | Trial/ Arbitration | Other Hearing |
|--|--|--|------------|-----------------------|------------------|
| Sony Music Entertainment, et al. | Cox Communications, Inc., et al. | US District Court - Eastern District of Virginia | X | X | |
| BMG Rights Management (US) LLC | Global Eagle Entertainment Inc., et al. | US District Court - Central District of California | X | | |
| American Transport Association of America d/b/a Airlines for America | <u>The Washington State Department of Labor and Industries, et al.</u> | US District Court – Western District of Washington | X | | |
| Vanessa Scott-Allen | <u>KRM, Inc., et al.</u> | California Superior Court - Marin County | X | | |
| <u>Huy Fong Foods, Inc.</u> | Underwood Ranches, LP, et al. ** | California Superior Court - Ventura County | X | | |
| 1639 11th St., Inc., et al. | <u>Philip Tolk</u> ** | California Superior Court - Los Angeles County | X | | |
| Immersion Corporation | <u>Motorola Mobility LLC, et al.</u> | US District Court - District of Delaware | X | | |
| Delta Air Lines, Inc. | <u>The New York City Department of Consumer Affairs, et al.</u> | US District Court - Eastern District of New York | X | | |
| <u>Storz Management Company, et al.</u> | Andrew Carey, et al. ** | US District Court - Eastern District of California | X | | |
| <u>SafeDocs, Inc., et al.</u> | Swett & Crawford, et al. | California Superior Court – San Francisco County | X | | |
| Calytrix Technologies, Inc. | <u>Bohemia Interactive Simulations, inc.</u> | Florida Circuit Court - Orange County | X | | |
| Donald Graham | <u>Richard Prince, et al.</u> | US District Court - Southern District of New York | X | | |
| Eric McNatt | <u>Richard Prince, et al.</u> | US District Court - Southern District of New York | X | | |
| Medipro Medical Staffing, LLC, et al. | <u>Certified nursing Registry, Inc., et al.</u> | California Superior Court - Los Angeles County | X | X | |

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| Plaintiff/Claimant | Defendant/Respondent | Venue | Deposition | Trial/ Arbitration | Other Hearing |
|--|---|---|------------|-----------------------|------------------|
| <u>Joshua Wasser, et al.</u> | <u>All Market, Inc.</u> | US District Court - Southern District of Florida | X | | X |
| Colonel David Randolph Scott | <u>Citizen Watch Company of America, Inc., et al.</u> | US District Court - Northern District of California | X | | |
| Ghostbed, Inc, et al. | <u>Casper Sleep, Inc., et al.</u> ** — | US District Court - Southern District of Florida | X | | |
| <u>Frost Management Company, LLC, et al.</u> | Hollencrest Bayview Partners, L.P., et al. ** | JAMS Arbitration | X | X | |
| <u>Banc of California, Inc., et al.</u> | Farmers & Merchants Bank of Long Beach ** | US District Court - Central District of California | X | | |
| <u>PNY Technologies, Inc.</u> | Netac Technology Co., Ltd. ** | Arbitration | X | X | |
| <u>Sutter Health, et al.</u> | OptumInsight, Inc. f/k/a/ Ingenix, Inc. ** | AAA Arbitration | X | X | |
| Triumph International, Inc., et al. | <u>GourmetGiftBaskets.com</u> | US District Court - Central District of California | X | | |
| Paramount Pictures Corporation, et al. | <u>Axanar Productions, Inc., et al.</u> | US District Court - Central District of California | X | | |
| <u>Archie MD, Inc.</u> | Elsevier, Inc. | US District Court - Southern District of New York | X | | |
| <u>Post Advisory Group</u> | Lawrence Post, et al. | JAMS Arbitration | X | X | |
| <u>PNY Technologies, Inc.</u> | Miller, Kaplan & Arase, LLP | US District Court - Northern District of California | X | X | |
| <u>Michael Torgan</u> | Stephen Reissman, et al. | ADR Services Arbitration | | X | |
| <u>Ahmad Alkayali</u> | Fatma Houkhari, et al. | California Superior Court – Riverside County | X | X | |
| Synopsys, Inc. | <u>ATopTech, Inc.</u> | US District Court - Northern District of California | X | | |

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| Plaintiff/Claimant | Defendant/Respondent | Venue | Deposition | Trial/ Arbitration | Other Hearing |
|--|--|--|------------|-----------------------|------------------|
| Ruth McClamma Stueve, et al. | Raymond Novell, et al. | California Superior Court – Orange County | X | | |
| <u>Monica Barba, et al.</u> | Shire U.S., et al. | US District Court - Southern District of Florida | X | | |
| <u>Taylored Services Parent Co., Inc.</u> | Taylored Acquisition Corporation, et al. | JAMS Arbitration | X | X | |
| <u>Tessera, Inc.</u> | UTAC (Taiwan) Corp. | US District Court - Northern District of California | X | | |
| Yellow Pages Photos, Inc. | <u>SuperMedia, Inc.</u> | US Bankruptcy Court - District of Delaware | X | | |
| SCA Promotions, Inc. | <u>Yahoo! Inc. **</u> | US District Court - Northern District of Texas | X | | |
| <u>Omega Patents, LLC</u> | CalAmp Corporation | US District Court - Middle District of Florida | X | X | |
| Tullett Prebon Financial Services, LLC, et al. | <u>Suncica Reljic, et al. **</u> | Financial Industry National Regulatory Authority Arbitration | | X | |
| <u>LendingTools.com, Inc.</u> | Bankers' Bank of Kansas, et al. | Kansas District Court - Sedgwick County | X | X | |
| Klauber Brothers, Inc. | <u>Target Corporation, et al.</u> | US District Court - Southern District of New York | X | | |
| <u>Vopak Terminal Los Angeles Inc.</u> | Petro-Diamond Incorporated ** | California Superior Court – Orange County | X | X | |
| <u>AAMP of Florida, Inc. d/b/a AAMP of America</u> | Automotive Data Solutions, Inc. | US District Court - Middle District of Florida | X | | |
| <u>Emmett McDonough, et al.</u> | James Knell, et al. | California Superior Court – Santa Barbara County | X | X | |

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| Plaintiff/Claimant | Defendant/Respondent | Venue | Deposition | Trial/ Arbitration | Other Hearing |
|---------------------------------|---|---|------------|-----------------------|------------------|
| Samy Abdou, M.D. | <u>Alphatec Spine, Inc.</u> | US District Court - Central District of California | X | | |
| <u>John Ibarra</u> | Jacob Christopher Ortiz, a/k/a Tito Ortiz, et al. | California Superior Court - Los Angeles County | X | | |
| <u>Angel Aquiar</u> | Merisant Company, et al. | US District Court - Central District of California | X | | |
| <u>Calista Enterprises Ltd.</u> | Tenza Trading Ltd. ** | US District Court - District of Oregon | X | | |
| <u>Tessera, Inc.</u> | Powertech Technology, Inc. and Macrotech Technology, Inc. | US District Court - Northern District of California | X | | |
| <u>Nomadix Inc.</u> | iBAHN Corporation | US District Court - Central District of California | X | | |
| Irvine Fuel, et al. | ConocoPhillips, et al. ** | California Superior Court – Orange County | X | | |
| Casino Marketing Alliance | <u>Pinnacle Entertainment</u> | ADR Arbitration | X | X | |
| <u>Tessera, Inc.</u> | Sony Corporation | US District Court - Northern District of California | X | | |
| Jim Marshall Photography LLC | <u>John Varvatos Enterprises, Inc., et al.</u> ** | US District Court - Northern District of California | X | | |
| <u>iTradeNetwork, Inc.</u> | Emeric McDonald | California Superior Court – Santa Clara County | X | | |
| <u>Nomadix Inc.</u> | Aruba Networks, Inc. | US District Court - Central District of California | X | | |
| NurseGate, Inc., et al. | <u>Parkview Community Hospital Medical Center</u> | California Superior Court – Riverside County | X | | |

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| Plaintiff/Claimant | Defendant/Respondent | Venue | Deposition | Trial/ Arbitration | Other Hearing |
|--|--|--|------------|-----------------------|------------------|
| <u>Banning Lary, M.D., et al.</u> | Boston Scientific Corporation ** | US District Court - Southern District of Florida | X | | |
| SanDisk Corporation | <u>PNY Corporation</u> ** | California Superior Court - Santa Clara County | X | X | |
| <u>Nomadix Inc.</u> | Wayport, Inc. and Superclick Networks Inc. | US District Court - Central District of California | X | | |
| <u>Crestview Service, Inc.</u> | Brian Graver, Trustee of the Graver Family Trust | JAMS Arbitration | X | X | |
| <u>Nomadix Inc.</u> | Hewlett Packard Corporation ** | US District Court - Central District of California | X | | |
| <u>Alayne Batsakes</u> | Spiro Chaconas, et al. | California Superior Court – Riverside County | X | | |
| <u>Signal Hill Service, Inc., et al.</u> | Macquarie Bank Limited | US District Court - Central District of California | X | | |
| Steven Short | <u>Charles Ware</u> ** | California Superior Court – Riverside County | X | | X |
| Jeffrey Malone, et al. | <u>Jerry Berger, Montemar Homeowners Association, et al.</u> | California Superior Court – San Diego County | X | | |
| John Woodford Hansen, et al. | <u>Tri-Valley Corporation, et al.</u> | California Superior Court – Ventura County | X | | |
| ACN Digital Phone Service, LLC | <u>Universal Microelectronics Co., Ltd.</u> ** — | AAA Arbitration | X | X | |
| Compulink Management Center, Inc. | <u>SAP America Inc., et al.</u> ** — | US District Court - Central District of California | X | | |
| <u>Barry Gustin, et al.</u> | HighPoint Capital Management, LLC, et al. | California Superior Court - Alameda County | X | | |

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| Plaintiff/Claimant | Defendant/Respondent | Venue | Deposition | Trial/ Arbitration | Other Hearing |
|--|--|--|------------|-----------------------|------------------|
| <u>Motorola Mobility, Inc.</u> | Microsoft Corporation ** | US District Court - Southern District of Florida | X | | |
| <u>Brandy Flores</u> | Chemi-Source, Inc. | California Superior Court - Orange County | X | X | |
| K&N Engineering, Inc. | <u>Spectre Performance, Inc. **</u> | US District Court - Central District of California | X | X | |
| Kathrein-Werke, KG | <u>Radiacion Y Microondas S.A., et al.</u> | US District Court - Northern District of Illinois | X | | |
| Jivago Inc. | <u>Kleinberg & Lerner, LLP, et al.</u> | California Superior Court - Los Angeles County | | X | |
| Worth Bargain Outlet, et al. | <u>AMCO Insurance Company, et al.</u> | US District Court - Central District of California | X | | |
| Baker, Marquart, Crone & Hawhurst, LLP | <u>Kevin Sullivan **</u> | AAA Arbitration | | X | |
| <u>King Tuna, Inc.</u> | Anova Foods, Inc. ** | US District Court - Central District of California | X | X | |
| <u>Sunrise Biotechnology, Inc.</u> | Orchid Way, Inc., et al. | California Superior Court - Los Angeles County | | X | |
| Camp Scandinavia AB, et al. | <u>Trulife, Inc., et al.</u> | US District Court - Central District of California | X | | |
| <u>Fun With Phonics, LLC</u> | Leapfrog, Inc. | US District Court - Central District of California | X | | |
| Milton Okun | <u>Peter Morton</u> | California Superior Court - Los Angeles County | X | X | |
| Arista Records, LLC, et al. | <u>Myxer, Inc.</u> | US District Court - Central District of California | X | | |

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| Plaintiff/Claimant | Defendant/Respondent | Venue | Deposition | Trial/ Arbitration | Other Hearing |
|---|--|---|------------|-----------------------|------------------|
| <u>Advanced Thermal Systems Corporation</u> | Applied Materials, Inc. ** | US District Court - Central District of California | X | X | |
| <u>Nicoleta Jacoby</u> | Bennett Jacoby | Family Court - State of Hawaii | | X | |
| <u>Daniel Holzman, et al.</u> | Farmers Insurance Exchange, et al. | California Superior Court - Los Angeles County | X | | |
| <u>Lora Vrastil</u> | Madison Marquette Realty Services LP, et al. | California Superior Court - Los Angeles County | | X | |
| Vinetta Lough | <u>Richard Lough</u> , et al. | California Superior Court - Los Angeles County | X | X | X |
| <u>Walters Golf, et al.</u> | Travel Golf Media, Inc., et al. | District Court - Clark County, Nevada | | X | |
| <u>Ann Becher Smead, et al.</u> | Michael Danzi | California Superior Court -Orange County | X | X | |
| <u>Jay Bharat Developers, Inc. et al.</u> | Jim Minidis, et al. ** | California Superior Court - Los Angeles County | | X | |
| <u>Kevin Sullivan</u> | Thomas Sullivan, et al. | AAA Arbitration | X | X | |
| McKesson Corporation | <u>Family Meds, Inc.</u> | US Bankruptcy Court - Northern District of California | | | X |
| <u>Blue Mako, Inc., et al.</u> | Jim Minidis, et al. ** | US District Court - Central District of California | X | | |
| City of St. Petersburg, et al. | <u>Canam Steel Corporation, et al.</u> | US District Court - Middle District of Florida | X | | |
| DealerTrack, Inc. | <u>Finance Express LLC, et al. **</u> | US District Court - Central District of California | X | | |

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| Plaintiff/Claimant | Defendant/Respondent | Venue | Deposition | Trial/ Arbitration | Other Hearing |
|--------------------------------------|--|---|------------|-----------------------|------------------|
| <u>Sugar Association, et al.</u> | McNeil Nutritionals, LLC | US District Court - Central District of California | X | | |
| <u>Troy Valdez</u> | Philip Neuman ** | US District Court - Central District of California | X | X | |
| Phillips, Spallas & Angstadt LLP | Shahab Fotouhi | US Bankruptcy Court - Northern District of California | | X | |
| <u>Lockheed Martin Corporation</u> | L-3 Communications Corporation, et al. | US District Court - Middle District of Florida | X | | |
| Netalog, Inc. | <u>Belkin Corporation</u> | US District Court - Middle District of North Carolina | X | | |
| Hub City Solid Waste Services, Inc. | <u>City of Compton **</u> | California Superior Court - Los Angeles County | X | | |
| Dimension One Spas, Inc. | <u>Coverplay, Inc., et al.</u> | US District Court - Southern District of California | X | | |
| <u>Hunleigh USA Corporation</u> | The United States | US District Court - Court of Federal Claims | X | X | |
| <u>Grupo Televisa, S.A., et al.</u> | Telemundo Communications Group, Inc., et al. | US District Court - Southern District of Florida | X | | |
| <u>CCE-TV Music Promotions, Inc.</u> | Henry Cardenas, et al. ** | AAA Arbitration | X | X | |
| <u>V.K. Enterprises, Inc.</u> | Vartan Markarian | California Superior Court - Los Angeles County | X | X | |
| <u>Sundance Spas, Inc.</u> | Clark Manufacturing, Inc., et al. | California Superior Court - Riverside County | X | X | |
| <u>NED Corporation</u> | Soff-Cut International, Inc. | US District Court - Central District of California | X | | |

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| Plaintiff/Claimant | Defendant/Respondent | Venue | Deposition | Trial/ Arbitration | Other Hearing |
|--|---|--|------------|-----------------------|------------------|
| TeeVee Toons, Inc. | <u>Thelen Reid & Priest LLP</u> ** — | California Superior Court - San Francisco County | X | | |
| <u>ABC Imaging, LLC</u> | American Reprographics Company, LLC | California Superior Court - Los Angeles County | X | | |
| <u>Southwestern Bell Corporation</u> | P&R Metals, Inc. | California Superior Court - Los Angeles County | X | | |
| Mary Magner and Patrick Magner, et al. | <u>Sears Roebuck & Company</u> | California Superior Court - San Diego County | X | | |
| Dalia Sharvit | <u>Michael Henschel, a.k.a. Mickey Henschel, et al.</u> | US Bankruptcy Court - Central District of California | | X | |
| Stanley Mosler, et al. | <u>Hawthorne Savings and Loan Association, et al.</u> | California Superior Court - Los Angeles County | | X | |
| Sun-Pro, Inc., et al. | <u>Deposition Technologies, Inc. **</u> | California Superior Court - San Diego County | X | | X |
| <u>Coopers & Lybrand LLP</u> ** | Karen Colin | JAMS Arbitration | | X | |

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APPENDIX D. SCHEDULES AND GRAPHICS

Following are schedules and graphics prepared in the course of my analysis.

Donald R. Cameron, et al. v. Apple Inc.

Schedule 1

Comparison of Total Apple Profit Metrics From Products & Services Profitability Report to Apple Form 10-K

Total Apple P&L Products & Services Profitability Report [1]

| (\$ in bill.) | FY 2016 | FY 2017 | FY 2018 | |
|-------------------------|--------------|--------------|--------------|--|
| Revenue | \$216 | \$229 | \$266 | |
| COGS | \$131 | \$141 | \$164 | |
| Gross Profit | \$85 | \$88 | \$102 | |
| Opex | \$24 | \$27 | \$31 | |
| Operating Profit | \$61 | \$61 | \$71 | |
| Operating Margin | 27.8% | 26.8% | 26.7% | |

Apple Form 10-K [2]

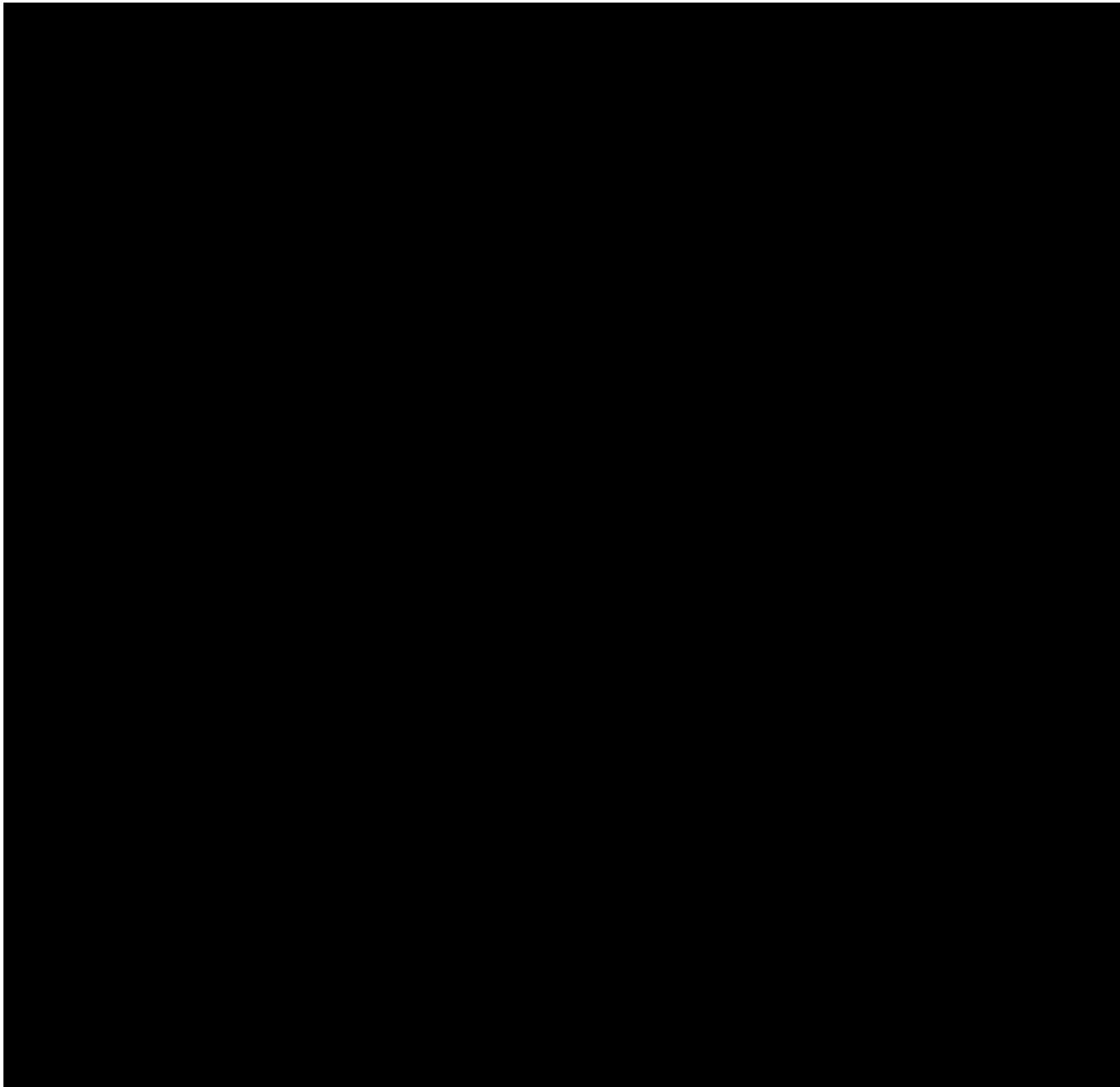
| (\$ in bill.) | FY 2016 | FY 2017 | FY 2018 | FY 2019 | FY 2020 |
|-------------------------|--------------|--------------|--------------|--------------|--------------|
| Revenue | \$215.64 | \$229.23 | \$265.60 | \$260.17 | \$274.52 |
| COGS | \$131.38 | \$141.05 | \$163.76 | \$161.78 | \$169.56 |
| Gross Profit | \$84.26 | \$88.19 | \$101.84 | \$98.39 | \$104.96 |
| Opex | \$24.24 | \$26.84 | \$30.94 | \$34.46 | \$38.67 |
| Operating Profit | \$60.02 | \$61.34 | \$70.90 | \$63.93 | \$66.29 |
| Operating Margin | 27.8% | 26.8% | 26.7% | 24.6% | 24.1% |

Notes and Sources:

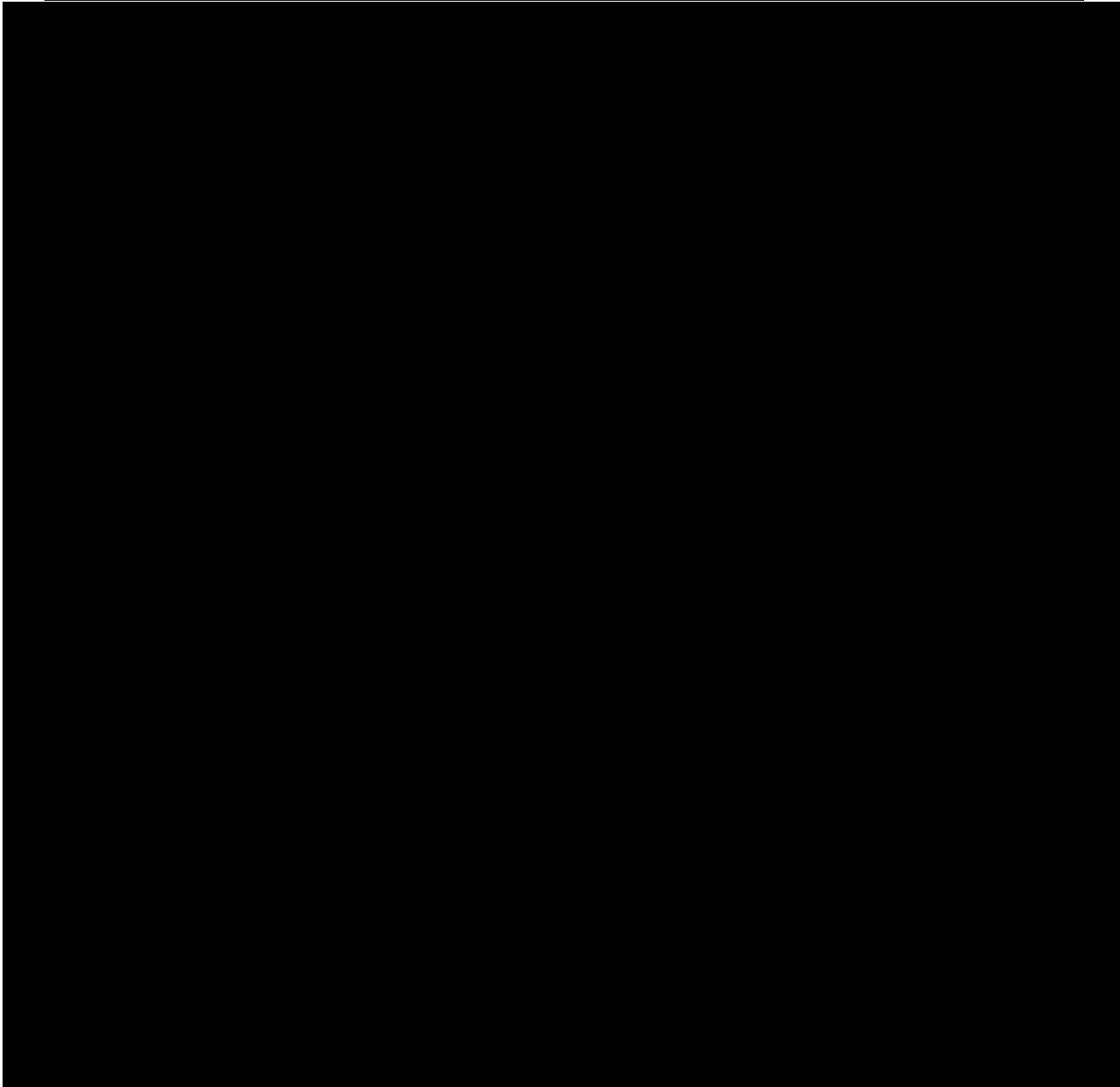
[1] APL-EG_08926412 - APL-EG_08926433 at '6423.

[2] The Company's fiscal year is the 52- or 53-week period that ends on the last Saturday of September, Apple Form 10-K (for the period ended September 26, 2020), pp. 19, 31, 36 and Apple Form 10-K (for the period ended September 29, 2018), p. 38.

Donald R. Cameron, et al. v. Apple Inc.
Schedule 2



Donald R. Cameron, et al. v. Apple Inc.
Schedule 2.1



Donald R. Cameron, et al. v. Apple Inc.

Schedule 3

Apple - Comparing Total - Individual Services and Products P&Ls vs. Total Apple P&L vs. AppleTotal P&L per Form 10-K**Total - Individual Services and Products P&Ls [1]**

| | (\$ in bill.) | | |
|---------|---------------|---------|---------|
| | FY 2016 | FY 2017 | FY 2018 |
| Revenue | \$215.3 | \$228.8 | \$264.9 |
| COGS | \$130.8 | \$141.5 | \$163.0 |
| [4] GM | \$84.5 | \$87.3 | \$101.9 |
| Opex | \$22.5 | \$25.3 | \$29.1 |
| OM | \$60.8 | \$62.0 | \$72.8 |
| Opex % | 28.2% | 27.1% | 27.5% |

Total Apple P&L [2]

| | (\$ in bill.) | | | FY 2019 | FY 2020 |
|---------|---------------|---------|---------|---------|---------|
| | FY 2016 | FY 2017 | FY 2018 | | |
| Revenue | \$216 | \$229 | \$266 | | |
| COGS | \$131 | \$141 | \$164 | | |
| GM | \$85 | \$88 | \$102 | | |
| Opex | \$24 | \$27 | \$31 | | |
| OM | \$61 | \$61 | \$71 | | |
| Opex % | 27.8% | 26.8% | 26.7% | | |

Apple Form 10-K [3]

| | (\$ in bill.) | | | | |
|---------|---------------|----------|----------|----------|----------|
| | FY 2016 | FY 2017 | FY 2018 | FY 2019 | FY 2020 |
| Revenue | \$215.64 | \$229.23 | \$265.60 | \$260.17 | \$274.52 |
| COGS | \$131.38 | \$141.05 | \$163.76 | \$161.78 | \$169.56 |
| GM | \$84.26 | \$88.19 | \$101.84 | \$98.39 | \$104.96 |
| Opex | \$24.24 | \$26.84 | \$30.94 | \$34.46 | \$38.67 |
| OM | \$60.02 | \$61.34 | \$70.90 | \$63.93 | \$66.29 |
| Opex % | 27.8% | 26.8% | 26.7% | 24.6% | 24.1% |

Variance of Total Individual Services and Products P&L to Total Apple P&L

| | (\$ in bill.) | | |
|---------|---------------|---------|---------|
| | FY 2016 | FY 2017 | FY 2018 |
| Revenue | (\$0.7) | (\$0.2) | (\$1.1) |
| COGS | (\$0.2) | \$0.5 | (\$1.0) |
| GM | (\$0.5) | (\$0.7) | (\$0.1) |
| Opex | (\$1.5) | (\$1.7) | (\$1.9) |
| OM | (\$0.2) | \$1.0 | \$1.8 |

Variance of Total Apple P&L to Apple Form 10-K

| | (\$ in bill.) | | | | Y 2020 |
|---------|---------------|----------|---------|--|--------|
| | FY 2016 | FY 2017 | FY 2018 | | |
| Revenue | \$0.36 | (\$0.23) | \$0.40 | | na |
| COGS | (\$0.38) | (\$0.05) | \$0.24 | | na |
| GM | \$0.74 | (\$0.19) | \$0.16 | | na |
| Opex | (\$0.24) | \$0.16 | \$0.06 | | na |
| OM | \$0.98 | (\$0.34) | \$0.10 | | na |

Notes and Sources:

[1] Schedule 3.1

[2] APL-EG_08926412 - APL-EG_08926433 at '6423.

[3] The Company's fiscal year is the 52- or 53-week period that ends on the last Saturday of September, Apple Form 10-K (for the period ended September 26, 2020), pp. 19, 31, 36 and Apple Form 10-K (for the period ended September 29, 2018), p. 38.

[4] Gross margin is calculated based on data presented in the Products & Services Profitability Report.

Donald R. Cameron, et al. v. Apple Inc.**Schedule 3.1****Apple - Total of Individual Services and Products P&Ls****Total - Individual Products P&Ls**

| (\$ in bill.) | FY 2016 | FY 2017 | FY 2018 | FY 2019 | FY 2020 |
|---------------|--------------------|--------------------|--------------------|----------------|----------------|
| Revenue | \$189.1 | \$196.9 | \$225.4 | | |
| COGS | \$117.1 | \$126.4 | \$147.7 | | |
| [3] GM | \$72.0 | \$70.5 | \$77.7 | | |
| Opex | \$19.1 | \$21.5 | \$23.6 | | |
| OM | \$51.6 | \$49.3 | \$53.8 | | |

Total - Individual Services P&Ls

| (\$ in bill.) | FY 2016 | FY 2017 | FY 2018 | FY 2019 | FY 2020 |
|---------------|--------------------|--------------------|--------------------|----------------|----------------|
| Revenue | \$26.2 | \$31.9 | \$39.5 | | |
| COGS | \$13.7 | \$15.1 | \$15.3 | | |
| [3] GM | \$12.5 | \$16.8 | \$24.2 | | |
| Opex | \$3.4 | \$3.8 | \$5.5 | | |
| OM | \$9.2 | \$12.7 | \$19.0 | | |

Total - Individual Services and Products P&Ls

| (\$ in bill.) | FY 2016 | FY 2017 | FY 2018 | FY 2019 | FY 2020 |
|---------------|----------------|----------------|----------------|----------------|----------------|
| Revenue | \$215.3 | \$228.8 | \$264.9 | | |
| COGS | \$130.8 | \$141.5 | \$163.0 | | |
| [3] GM | \$84.5 | \$87.3 | \$101.9 | | |
| Opex | \$22.5 | \$25.3 | \$29.1 | | |
| OM | \$60.8 | \$62.0 | \$72.8 | | |

Notes and Sources:

- [1] Schedules 3.2 and 3.3.
- [2] The Company's fiscal year is the 52- or 53-week period that ends on the last Saturday of September, Apple Form 10-K (for the period ended September 26, 2020), p. 36.
- [3] Gross margin is calculated based on data presented in the Products & Services Profitability Report.
- [4] Data shown as presented in the Products & Services Profitability Report. Due to rounding, Apple's presentation of its financial information may not tie out.

Donald R. Cameron, et al. v. Apple Inc.

Schedule 3.2

Apple - Comparing Total Individual Services P&L vs. Total Services P&L

| Total - Individual Services P&Ls | | | | | | Total - Services P&L | | | Variance | | | | | | | | |
|----------------------------------|------------|------------|------------|--------------|--------------|----------------------|------------|------------|------------|------------|------------|---------------|------------|------------|------------|------------|------------|
| (\$ in bill.) | FY | | | FY 2019 | FY 2020 | (\$ in bill.) | FY | | | FY | FY | (\$ in bill.) | FY | | | FY | FY |
| | FY 2016 | FY 2017 | FY 2018 | | | | FY 2016 | FY 2017 | FY 2018 | | | | FY 2016 | FY 2017 | FY 2018 | | |
| Revenue | \$26.2 | \$31.9 | \$39.5 | ([REDACTED]) | ([REDACTED]) | Revenue | \$27 | \$33 | \$40 | [REDACTED] | [REDACTED] | Revenue | (\$0.8) | (\$1.1) | (\$0.5) | [REDACTED] | [REDACTED] |
| COGS | \$13.7 | \$15.1 | \$15.3 | ([REDACTED]) | ([REDACTED]) | COGS | \$14 | \$15 | \$16 | [REDACTED] | [REDACTED] | COGS | (\$0.3) | \$0.1 | (\$0.7) | [REDACTED] | [REDACTED] |
| [3] GM | \$12.5 | \$16.8 | \$24.2 | \$12.5 | \$12.7 | GM | \$13 | \$18 | \$24 | [REDACTED] | [REDACTED] | GM | (\$0.5) | (\$1.2) | \$0.2 | [REDACTED] | [REDACTED] |
| Opex | \$3.4 | \$3.8 | \$5.5 | \$3.4 | \$4 | Opex | \$4 | \$4 | \$5 | [REDACTED] | [REDACTED] | Opex | (\$0.6) | (\$0.2) | \$0.5 | [REDACTED] | [REDACTED] |
| OM | \$9.2 | \$12.7 | \$19.0 | \$9.2 | \$12.7 | OM | \$10 | \$14 | \$19 | [REDACTED] | [REDACTED] | OM | (\$0.8) | (\$1.3) | \$0.0 | [REDACTED] | [REDACTED] |
| Opex % | 35.1% | 39.8% | 48.1% | [REDACTED] | [REDACTED] | Opex % | 36.1% | 42.1% | 47.8% | [REDACTED] | [REDACTED] | | | | | [REDACTED] | [REDACTED] |

Notes and Sources:

[1] APL-EG_08926412 - APL-EG_08926433 at '6424 - '6426 and Schedule 3.2.1.

[2] The Company's fiscal year is the 52- or 53-week period that ends on the last Saturday of September, Apple Form 10-K (for the period ended September 26, 2020), p. 36.

[3] Gross margin is calculated based on data presented in the Products & Services Profitability Report.

[4] Data shown as presented in the Products & Services Profitability Report. Due to rounding, Apple's presentation of its financial information may not tie out.

Donald R. Cameron, et al. v. Apple Inc.
 Schedule 3.2.1
 Individual Apple Services P&Ls per Products & Services Profitability Report

| | FY 2016 | FY 2017 | FY 2018 | FY 2019 (Fcst.) | FY 2020 (Fcst.) |
|---------------------------------------|---------|---------|---------|-----------------|-----------------|
| App Store (\$ in bill.) | | | | | |
| Revenue | \$7 | \$9 | \$12 | | |
| COGS | \$1 | \$1 | \$1 | | |
| [3] GM | \$6 | \$8 | \$11 | | |
| Opex | \$1 | \$1 | \$2 | | |
| OM | \$5 | \$7 | \$9 | | |
| Licensing (\$ in bill.) | | | | | |
| Revenue | \$4 | \$6 | \$9 | | |
| COGS | \$0 | \$0 | \$0 | | |
| [3] GM | \$4 | \$6 | \$9 | | |
| Opex | \$0 | \$0 | \$0 | | |
| OM | \$4 | \$6 | \$9 | | |
| Apple Care (\$ in bill.) | | | | | |
| Revenue | \$5.4 | \$5.5 | \$6.6 | | |
| COGS | \$4.0 | \$4.1 | \$4.4 | | |
| [3] GM | \$1.4 | \$1.4 | \$2.2 | | |
| Opex | \$0.4 | \$0.4 | \$0.4 | | |
| OM | \$1.0 | \$1.1 | \$1.8 | | |
| Music (\$ in bill.) | | | | | |
| Revenue | \$3.9 | \$4.1 | \$4.6 | | |
| COGS | \$3.3 | \$3.6 | \$3.9 | | |
| [3] GM | \$0.6 | \$0.5 | \$0.7 | | |
| Opex | \$0.4 | \$0.5 | \$0.6 | | |
| OM | \$0.2 | \$0.0 | \$0.2 | | |
| iCloud (\$ in bill.) | | | | | |
| Revenue | \$0.6 | \$1.0 | \$1.6 | | |
| COGS | \$0.8 | \$1.3 | \$1.2 | | |
| [3] GM | (\$0.2) | (\$0.3) | \$0.4 | | |
| Opex | \$0.1 | \$0.2 | \$0.2 | | |
| OM | (\$0.3) | (\$0.4) | \$0.2 | | |
| Adv Platforms (\$ in bill.) | | | | | |
| Revenue | \$0.1 | \$0.3 | \$0.6 | | |
| COGS | \$0.1 | \$0.0 | \$0.1 | | |
| [3] GM | \$0.0 | \$0.3 | \$0.5 | | |
| Opex | \$0.2 | \$0.2 | \$0.3 | | |
| OM | (\$0.2) | \$0.0 | \$0.3 | | |
| Free Services (\$ in bill.) | | | | | |
| Revenue | \$2.5 | \$2.5 | \$2.3 | | |
| COGS | \$2.5 | \$2.8 | \$2.7 | | |
| [3] GM | \$0.0 | (\$0.3) | (\$0.4) | | |
| Opex | \$0.9 | \$1.0 | \$1.4 | | |
| OM | (\$0.9) | (\$1.3) | (\$1.8) | | |

Donald R. Cameron, et al. v. Apple Inc.
Schedule 3.2.1
Individual Apple Services P&Ls per Products & Services Profitability Report

| | Other Video | | | |
|---|--------------------|-------------|-------------|---------------------|
| | 2016 | 2017 | 2018 | 2019 (Fcst.) |
| (\$ in bill.) | | | | |
| Revenue | \$1.6 | \$1.5 | \$1 5 | |
| COGS | \$1.3 | \$1.3 | \$1 3 | |
| [3] GM | \$0.3 | \$0.2 | \$0 2 | |
| Opex | \$0.1 | \$0.1 | \$0 2 | |
| OM | \$0.2 | \$0.1 | \$0.1 | |
| MFI | | | | |
| (\$ in bill.) | | | | |
| Revenue | FY 2016 | FY 2017 | FY 2018 | |
| | \$0.2 | \$0.4 | \$0 6 | |
| COGS | \$0.1 | \$0.2 | \$0 3 | |
| [3] GM | \$0.1 | \$0.2 | \$0 3 | |
| Opex | \$0.0 | \$0.0 | \$0 0 | |
| OM | \$0.1 | \$0.2 | \$0 3 | |
| Other Services | | | | |
| (\$ in bill.) | | | | |
| Revenue | FY 2016 | FY 2017 | FY 2018 | |
| | \$0.6 | \$0.5 | \$0.4 | |
| COGS | \$0.4 | \$0.2 | \$0 2 | |
| [3] GM | \$0.2 | \$0.3 | \$0 2 | |
| Opex | \$0.1 | \$0.1 | \$0 2 | |
| OM | \$0.1 | \$0.2 | \$0 0 | |
| Rest of Other Media | | | | |
| (\$ in bill.) | | | | |
| Revenue | FY 2016 | FY 2017 | FY 2018 | |
| | \$0.3 | \$0.3 | \$0 3 | |
| COGS | \$0.2 | \$0.2 | \$0.1 | |
| [3] GM | \$0.1 | \$0.1 | \$0 2 | |
| Opex | \$0.1 | \$0.1 | \$0 0 | |
| OM | \$0.1 | \$0.0 | \$0.1 | |
| Apple Pay | | | | |
| (\$ in bill.) | | | | |
| Revenue | FY 2016 | FY 2017 | FY 2018 | |
| | \$0.0 | \$0.0 | \$0 0 | |
| COGS | \$0.0 | \$0.0 | \$0.1 | |
| [3] GM | \$0.0 | \$0.0 | (\$0.1) | |
| Opex | \$0.1 | \$0.2 | \$0 2 | |
| OM | (\$0.1) | (\$0.2) | (\$0 2) | |
| New Services | | | | |
| (\$ in bill.) | | | | |
| Revenue | FY 2016 | FY 2017 | FY 2018 | |
| | \$0.0 | \$0.0 | \$0 0 | |
| COGS | \$0.0 | \$0.0 | \$0 0 | |
| [3] GM | \$0.0 | \$0.0 | \$0 0 | |
| Opex | \$0.0 | \$0.0 | \$0 0 | |
| OM | \$0.0 | \$0.0 | \$0 0 | |
| Total - Individual Services P&Ls | | | | |
| (\$ in bill.) | | | | |
| Revenue | FY 2016 | FY 2017 | FY 2018 | |
| | \$26.2 | \$31.9 | \$39 5 | |
| COGS | \$13.7 | \$15.1 | \$15 3 | |
| GM | \$12.5 | \$16.8 | \$24 2 | |
| Opex | \$3.4 | \$3.8 | \$5 5 | |
| OM | \$9.2 | \$12.7 | \$19 0 | |

Notes and Sources

- [1] APL-EG_08926412 - APL-EG_08926433 at '6424 - '6426.
- [2] The Company's fiscal year is the 52- or 53-week period that ends on the last Saturday of September, Apple Form 10-K (for the period ended September 26, 2020), p. 36.
- [3] Gross margin is calculated based on data presented in the Products & Services Profitability Report.
- [4] Data shown as presented in the Products & Services Profitability Report. Due to rounding, Apple's presentation of its financial information may not tie out.

Donald R. Cameron, et al. v. Apple Inc.

Schedule 3.3

Apple - Comparing Total Individual Products P&L vs. Total Products P&L

| Total - Individual Products P&Ls | | | | | | Total - Products P&L | | | | | | Variance | | | | | | |
|----------------------------------|---------|---------|---------|---------|---------|----------------------|---------------|-------|-------|-------|---------|----------|-------|---------------|---------|---------|---------|---------|
| (\$ in bill.) | FY | | | FY | | | (\$ in bill.) | FY | | | FY | | | (\$ in bill.) | FY | | | |
| | 2016 | 2017 | 2018 | 2019 | 2020 | () | | 2016 | 2017 | 2018 | 2016 | 2017 | 2018 | | 2016 | 2017 | 2018 | |
| Revenue | \$189.1 | \$196.9 | \$225.4 | \$225.4 | \$225.4 | () | Revenue | 189 | 197 | 226 | Revenue | 189 | 197 | 226 | Revenue | \$0.1 | (\$0.1) | (\$0.6) |
| COGS | \$117.1 | \$126.4 | \$147.7 | \$147.7 | \$147.7 | () | COGS | 118 | 126 | 148 | COGS | 118 | 126 | 148 | COGS | (\$0.9) | \$0.4 | (\$0.3) |
| [3] GM | \$72.0 | \$70.5 | \$77.7 | \$77.7 | \$77.7 | () | GM | 71 | 71 | 78 | GM | 71 | 71 | 78 | GM | \$1.0 | (\$0.5) | (\$0.3) |
| Opex | \$19.1 | \$21.5 | \$23.6 | \$23.6 | \$23.6 | () | Opex | 19 | 21 | 24 | Opex | 19 | 21 | 24 | Opex | \$0.1 | \$0.5 | (\$0.4) |
| OM | \$51.6 | \$49.3 | \$53.8 | \$53.8 | \$53.8 | () | OM | 51 | 49 | 54 | OM | 51 | 49 | 54 | OM | \$0.6 | \$0.3 | (\$0.2) |
| Opex % | 27.3% | 25.0% | 23.9% | 23.9% | 23.9% | () | Opex % | 27.3% | 24.9% | 23.9% | Opex % | 27.3% | 24.9% | 23.9% | Opex % | (\$0.2) | (\$0.2) | (\$0.2) |

Notes and Sources:

- [1] APL-EG_08926412 - APL-EG_08926433 at '6423 and Schedule 3.3.1.
- [2] The Company's fiscal year is the 52- or 53-week period that ends on the last Saturday of September, Apple Form 10-K (for the period ended September 26, 2020), p. 36.
- [3] Gross margin is calculated based on data presented in the Products & Services Profitability Report.
- [4] Data shown as presented in the Products & Services Profitability Report. Due to rounding, Apple's presentation of its financial information may not tie out.

Donald R. Cameron, et al. v. Apple Inc.

Schedule 3.3.1

Individual Apple Products P&Ls per Products & Services Profitability Report

| iPhone (\$ in bill.) | | FY 2016 | FY 2017 | FY 2018 | |
|--------------------------------|--|----------------|----------------|----------------|--|
| Revenue | | \$135 | \$139 | \$165 | |
| COGS | | \$76 | \$83 | \$102 | |
| [3] GM | | \$59 | \$56 | \$63 | |
| Opex | | \$9 | \$11 | \$12 | |
| OM | | \$49 | \$46 | \$50 | |
| iPad (\$ in bill.) | | FY 2016 | FY 2017 | FY 2018 | |
| Revenue | | \$20 | \$19 | \$18 | |
| COGS | | \$15 | \$14 | \$14 | |
| [3] GM | | \$5 | \$5 | \$4 | |
| Opex | | \$2.2 | \$2.1 | \$2.5 | |
| OM | | \$2.8 | \$2.7 | \$2.2 | |
| Mac (\$ in bill.) | | FY 2016 | FY 2017 | FY 2018 | |
| Revenue | | \$23 | \$26 | \$25 | |
| COGS | | \$17 | \$20 | \$19 | |
| [3] GM | | \$6 | \$6 | \$6 | |
| Opex | | \$3.5 | \$3.7 | \$4.1 | |
| OM | | \$2.1 | \$1.9 | \$1.8 | |
| Watch (\$ in bill.) | | FY 2016 | FY 2017 | FY 2018 | |
| Revenue | | \$2.9 | \$4.3 | \$6.3 | |
| COGS | | \$3.2 | \$3.3 | \$4.6 | |
| [3] GM | | (\$0.3) | \$1.0 | \$1.7 | |
| Opex | | \$2.0 | \$2.4 | \$2.3 | |
| OM | | (\$2.3) | (\$1.4) | (\$0.5) | |

Donald R. Cameron, et al. v. Apple Inc.

Schedule 3.3.1

Individual Apple Products P&Ls per Products & Services Profitability Report

| AirPods | | | |
|----------------|----------------|----------------|----------------|
| (\$ in bill.) | FY 2016 | FY 2017 | FY 2018 |
| Revenue | \$0.0 | \$0.7 | \$2.8 |
| COGS | \$0.0 | \$0.7 | \$2.2 |
| [3] GM | \$0.0 | \$0.0 | \$0.6 |
| Opex | \$0.1 | \$0.1 | \$0.2 |
| OM | (\$0.1) | (\$0.1) | \$0.3 |

| Other W/H/A | | | |
|--------------------|----------------|----------------|----------------|
| (\$ in bill.) | FY 2016 | FY 2017 | FY 2018 |
| Revenue | \$8.2 | \$7.9 | \$8.3 |
| COGS | \$5.9 | \$5.4 | \$5.9 |
| [3] GM | \$2.3 | \$2.5 | \$2.4 |
| Opex | \$2.3 | \$2.2 | \$2.5 |
| OM | \$0.1 | \$0.2 | \$0.0 |

| Total - Individual Products P&Ls | | | |
|---|----------------|----------------|----------------|
| (\$ in bill.) | FY 2016 | FY 2017 | FY 2018 |
| Revenue | \$189.1 | \$196.9 | \$225.4 |
| COGS | \$117.1 | \$126.4 | \$147.7 |
| GM | \$72.0 | \$70.5 | \$77.7 |
| Opex | \$19.1 | \$21.5 | \$23.6 |
| OM | \$51.6 | \$49.3 | \$53.8 |

Notes and Sources:

- [1] APL-EG_08926412 - APL-EG_08926433 at '6423.
- [2] The Company's fiscal year is the 52- or 53-week period that ends on the last Saturday of September, Apple Form 10-K (for the period ended September 26, 2020), p. 36.
- [3] Gross margin is calculated based on data presented in the Products & Services Profitability Report.
- [4] Data shown as presented in the Products & Services Profitability Report. Due to rounding, Apple's presentation of its financial information may not tie out.

Donald R. Cameron, et al. v. Apple Inc.**Schedule 4****App Store P&L per Products & Services Profitability Report - Adjusted**

| (\$ in bill.) | FY 2019 | | |
|--|---------|---------|---------|
| | FY 2016 | FY 2017 | FY 2018 |
| Revenue | \$7 | \$9 | \$12 |
| COGS | \$1 | \$1 | \$1 |
| [2] GM | \$6 | \$8 | \$11 |
| Opex | \$1 | \$1 | \$2 |
| OM | \$5 | \$7 | \$9 |
| Opex margin | 69.6% | 74.2% | 74.9% |
| [3] Unallocated Opex | \$1.5 | \$1.7 | \$1.9 |
| [3] Apple revenue | \$216 | \$229 | \$266 |
| Unallocated Opex as % of Apple revenue | 0.7% | 0.7% | 0.7% |
| Adjusted Opex margin | 68.9% | 73.5% | 74.2% |

Notes and Sources:

- [1] APL-EG_08926412 - APL-EG_08926433 at '6424. Document dated in September 2019. Apple has a fiscal year ending in September, indicating 2019 data is close to actual results.
- [2] Gross margin is calculated based on data presented in the Products & Services Profitability
- [3] Schedule 3.
- [4] Data shown as presented in the Products & Services Profitability Report. Due to rounding, Apple's presentation of its financial information may not tie out.

Donald R. Cameron, et al. v. Apple Inc.**Schedule 5****Apple App Store Operating Margin Percentage (Alternative Calculation)**

| (\$ millions) | [1] FY 2018 | [2] | [3] |
|-------------------------------------|-----------------------|-----|-----|
| Net revenue | \$ 11,533 | | |
| COGS | \$43 | | |
| Standard margin | <u>\$11,490</u> | | |
| OCOGS | <u>\$872</u> | | |
| Gross Margin | <u>\$10,618</u> | | |
| OPEX | <u>\$1,162</u> | | |
| Operating margin | <u>\$9,456</u> | | |
| Operating margin % | <u>82.0%</u> | | |
| [4] Adjustments: | | | |
| [5] WWDR OCOGS | \$68 | | |
| [6] WWDR OPEX | \$75 | | |
| [7] AppStore Marketing OPEX | \$23 | | |
| [8] OPEX not allocated to App Store | <u>\$112</u> | | |
| Adjusted operating margin | <u>\$9,178</u> | | |
| Adjusted operating margin % | <u>79.6%</u> | | |

Notes and Sources:

- [1] APL-APPSTORE_08883133 - APL-APPSTORE_08883332 at '3286.
- [2] APL-APPSTORE_10176241 - APL-APPSTORE_10176337 at '6318.
- [3] APL-APPSTORE_10187823 - APL-APPSTORE_10187995 at '7948. The data for 2020 is labeled "FY'20F," which may indicate a forecast. However, the second slide of the presentation states "we'll start with a review of FY20," indicating that the data may represent actual results (APL-APPSTORE_10187823 - APL-APPSTORE_10187995 at '7824).
- [4] Mr. Rollins testifies that the App Store Operating Margin is missing expenses. See Deposition of Mark Rollins, February 11, 2021, pp. 129-131. I have adjusted the reported App Store operating margins to include these expenses in the calculation.
- [5] Schedule 5.2.
- [6] Schedule 5.3.
- [7] Schedule 5.4.
- [8] Schedule 5.1.

Donald R. Cameron, et al. v. Apple Inc.**Schedule 5.1****Additional Operating Expense to Be Allocated to App Store**

| | (\$ millions) | FY 2018 | |
|--|----------------|---------|--|
| Apple Services | | | |
| [1] LOB Revenue | \$37,808 | | |
| [1] LOB OPEX | <u>\$4,606</u> | | |
| OPEX as a % of Revenue | 12.18% | | |
| iTunes | | | |
| [2] WW Revenue | \$18,012 | | |
| [2] WW OPEX | <u>\$2,020</u> | | |
| [3] iTunes OPEX - Estimated | \$2,195 | | |
| Difference between WW OPEX and iTunes OPEX - Estimated | \$174 | | |
| [4] App Store revenue | \$11,533 | | |
| [5] Portion of additional OPEX to App Store | <u>\$112</u> | | |

Notes and Sources:

- [1] Schedule 5.5.
- [2] Schedule 5.6.
- [3] Based upon the Services LOB ratio of OPEX to revenue.
- [4] Schedule 5.
- [5] Based on App Store revenue as percentage of iTunes revenue.

Donald R. Cameron, et al. v. Apple Inc.

Schedule 5.2

Apple Inc. WW Developer Relations (OCOGS) - Summary

| (\$ millions) | FY 2018 F | |
|-----------------------|------------------|--|
| [A] Headcount Related | \$65 | |
| [B] Programs | \$2 | |
| [C] Fixed Costs | \$0 | |
| [D] Other Costs | \$1 | |
| Total Spend (OCOGS) | <u>\$68</u> | |

Apple Notes:

- [A] Costs include salary, wages, bonuses related to App Reviewers, technical support, operations to maintain the developer website.
- [B] Costs include fraud investigation services.
- [C] Costs include telecom, depreciation and amortization, facilities.
- [D] Costs include travel & entertainment and machinery & equipment/supplies.

Notes and Sources:

- [1] Schedule 5.2.1.

Donald R. Cameron, et al. v. Apple Inc.**Schedule 5.2.1****Apple Inc. WW Developer Relations (OCOGS)**

| (\$ thousands) | FY 2018 | | | | FY 2019 | FY 2020 |
|-----------------------|-----------------|-----------------|-----------------|-----------------|---------|---------|
| | Q1 | Q2 | Q3 | Q4 | | |
| [A] Headcount Related | \$16,989 | \$16,096 | \$16,257 | \$15,829 | | |
| [B] Programs | \$994 | \$265 | \$290 | \$491 | | |
| [C] Fixed Costs | \$54 | \$134 | \$59 | \$67 | | |
| [D] Other Costs | \$205 | \$202 | \$268 | \$293 | | |
| Total Spend (OCOGS) | <u>\$18,242</u> | <u>\$16,697</u> | <u>\$16,873</u> | <u>\$16,679</u> | | |

Apple Notes:

- [A] Costs include salary, wages, bonuses related to App Reviewers, technical support, operations to maintain the developer website.
- [B] Costs include fraud investigation services.
- [C] Costs include telecom, depreciation and amortization, facilities.
- [D] Costs include travel & entertainment and machinery & equipment/supplies.

Notes and Sources:

- [1] APL-APPSTORE_09814097.xlsx.
- [2] The original source document incorrectly included Q2 in the Q1 Total Spend (OCOGS) calculation. This formula has been corrected.

Donald R. Cameron, et al. v. Apple Inc.

Schedule 5.3

Apple Inc. WW Developer Relations (OPEX) - Summary

| (\$ millions) | FY 2018 F | |
|-----------------------|------------------|--|
| [A] Headcount Related | \$34 | |
| [B] Programs | \$32 | |
| [C] Fixed Costs | \$3 | |
| [D] Other Costs | \$6 | |
| Total Spend (OPEX) | \$75 | |

Apple Notes:

- [A] Costs include salary, wages, bonuses related to App Reviewers, technical support, operations to maintain the developer website.
- [B] Costs include fraud investigation services.
- [C] Costs include telecom, depreciation and amortization, facilities.
- [D] Costs include travel & entertainment and machinery & equipment / supplies.

Notes and Sources:

- [1] Schedule 5.3.1.

Donald R. Cameron, et al. v. Apple Inc.

Schedule 5.3.1

Apple Inc. WW Developer Relations (OPEX)

| | FY 2018 | | | | FY 2019 | FY 2020 |
|-------------------------|----------------|-----------|-----------|-----------|----------------|----------------|
| | Q1 | Q2 | Q3 | Q4 | | |
| (<i>\$ thousands</i>) | | | | | | |
| [A] Headcount Related | \$8,363 | \$8,178 | \$8,730 | \$8,835 | | |
| [B] Programs | (\$701) | \$235 | \$35,585 | (\$2,871) | | |
| [C] Fixed Costs | \$171 | \$163 | \$1,226 | \$1,178 | | |
| [D] Other Costs | \$1,269 | \$1,116 | \$2,263 | \$1,347 | | |
| Total Spend (OPEX) | \$9,103 | \$9,693 | \$47,804 | \$8,489 | | |

Apple Notes:

- [A] Costs include salary, wages, bonuses related to establishing and maintaining developer relations.
- [B] Costs include app development contractors, programs (e.g., WWDC).
- [C] Costs include telecom, depreciation and amortization, facilities.
- [D] Costs include travel & entertainment and machinery & equipment/supplies.

Notes and Sources:

- [1] APL-APPSTORE_09814099.xlsx.

Donald R. Cameron, et al. v. Apple Inc.
Schedule 5.4
Apple Inc. App Store Marketing (OPEX) - Summary

| (\$ millions) | FY 2018 |
|------------------------------|----------------|
| [A] Headcount Related | \$20 |
| [B] Programs | \$1 |
| [C] Fixed Costs | \$0 |
| [D] Other Costs | \$1 |
| Total Spend (Marketing OPEX) | \$23 |

Apple Notes:

- [A] Costs include salary, wages, bonuses related to App Reviewers, technical support, operations to maintain the developer website.
- [B] Costs include fraud investigation services.
- [C] Costs include telecom, depreciation and amortization, facilities.
- [D] Costs include travel & entertainment and machinery & equipment/supplies.

Notes and Sources:

- [1] Schedule 5.4.1.

Donald R. Cameron, et al. v. Apple Inc.**Schedule 5.4.1****Apple Inc. App Store Marketing (OPEX)**

| (\$ thousands) | FY 2018 | | | | FY 2019 | FY 2020 |
|------------------------|---------|---------|---------|---------|---------|---------|
| | Q1 | Q2 | Q3 | Q4 | | |
| [A] Headcount Related | \$4,366 | \$4,698 | \$5,382 | \$5,594 | | |
| [B] Programs | \$289 | \$433 | \$347 | \$340 | | |
| [C] Fixed Costs | \$18 | \$19 | \$25 | \$24 | | |
| [D] Other Costs | \$214 | \$232 | \$342 | \$316 | | |
| [E] Total Spend (OPEX) | \$4,887 | \$5,382 | \$6,097 | \$6,274 | | |

Apple Notes:

- [A] Costs include salary, wages, and bonuses associated with marketing related operations and business management.
- [B] Costs include advertising, tool development services, and editorial writer contractors.
- [C] Costs include telecom, depreciation and amortization, facilities.
- [D] Costs include travel & entertainment and machinery & equipment/supplies.
- [E] Costs include US spend for each cost category with the exception that advertising expenses are worldwide.

Notes and Sources:

- [1] APL-APPSTORE_09814098.xlsx.

Donald R. Cameron, et al. v. Apple Inc.**Schedule 5.5****Apple Inc. Line of Business Report (Services) - Summary**

| | FY 2018 | Through Q1 |
|---|-----------------|------------|
| (\$ millions) | | |
| Net Revenue | \$37,808 | |
| Standard Cost | \$9,569 | |
| Standard Margin | \$28,239 | |
| <i>Standard Margin %</i> | 74.69% | |
| Variances | -\$1 | |
| Tooling | \$2 | |
| Royalties | \$234 | |
| Period Expense | \$2,944 | |
| Freight & Duty | \$0 | |
| Scrap & rework, Refurbs, Excess, Obsolete | \$0 | |
| Mfg Qual Builds/VAT | \$0 | |
| Warranty Expense | \$23 | |
| Phone Support Expense | \$501 | |
| FX OCOGS Hedge | \$0 | |
| Total Cost of Sales | <u>\$13,272</u> | |
| Gross Margin | \$24,536 | |
| <i>Gross Margin %</i> | 64.90% | |
| R & D | \$2,130 | |
| Advertising | \$200 | |
| Marketing Expenses | \$349 | |
| Sales Expenses | \$1,227 | |
| Distribution | \$28 | |
| G & A Admin | \$44 | |
| G & A Finance | \$55 | |
| G & A Human Resources | \$3 | |
| G & A IS & T | \$149 | |
| G & A Legal | \$144 | |
| G & A Facilities | \$150 | |
| G & A Allocations | \$128 | |
| Operating Expenses | <u>\$4,606</u> | |
| Operating Income | \$19,930 | |
| <i>Operating Income %</i> | 52.71% | |

Notes and Sources:

[1] Schedule 5.5.1.

Donald R. Cameron, et al. v. Apple Inc.

Schedule 5.5.1

Apple Inc. Line of Business Report (Services)

| (\$ thousands) | FY 2018 | | | | FY 2019 | FY 2020 |
|--|----------------|--------------|--------------|---------------|----------------|----------------|
| | Q1 | Q2 | Q3 | Q4 | | |
| Worldwide - Services | | | | | | |
| Net Revenue | \$ 8,469,791 | \$ 9,191,214 | \$ 9,547,825 | \$ 10,598,959 | | |
| Standard Cost | \$ 2,281,497 | \$ 2,337,240 | \$ 2,393,630 | \$ 2,556,225 | | |
| Standard Margin | \$ 6,188,294 | \$ 6,853,974 | \$ 7,154,194 | \$ 8,042,733 | | |
| Standard Margin % | 73.06% | 74.57% | 74.93% | 75.88% | | |
| Variance | \$ 2 | \$ 0 | \$ (413) | \$ (784) | | |
| Tooling | \$ 1,959 | | | | \$ 300 | |
| Royalties | \$ 45,448 | \$ 37,000 | \$ 47,664 | \$ 103,662 | | |
| Period Expense | \$ 602,418 | \$ 575,257 | \$ 601,593 | \$ 1,164,744 | | |
| Freight & Duty | \$ 7 | \$ 4 | \$ 4 | \$ 3 | | |
| Scrap & rework,Refurbs,Excess,Obsolete | \$ 14 | \$ 9 | \$ 7 | \$ 14 | | |
| Mfg Qual Builds/VAT | \$ 42 | | \$ 47 | \$ 139 | | |
| Warranty Expense | \$ (6) | \$ 7 | \$ 1 | \$ 23,059 | | |
| Phone Support Expense | \$ 73,197 | \$ 76,617 | \$ 78,849 | \$ 272,116 | | |
| FX OCOGS Hedge | | | | | | |
| Total Cost of Sales | \$ 3,004,576 | \$ 3,026,134 | \$ 3,121,381 | \$ 4,119,477 | | |
| Gross Margin | \$ 5,465,215 | \$ 6,165,081 | \$ 6,426,443 | \$ 6,479,482 | | |
| Gross Margin % | 64.53% | 67.08% | 67.31% | 61.13% | | |
| R & D | \$ 326,844 | \$ 507,835 | \$ 663,470 | \$ 632,051 | | |
| Advertising | \$ 47,527 | \$ 51,978 | \$ 44,562 | \$ 56,056 | | |
| Marketing Expenses | \$ 51,999 | \$ 82,818 | \$ 103,692 | \$ 110,233 | | |
| Sales Expenses | \$ 208,968 | \$ 303,707 | \$ 361,694 | \$ 352,654 | | |
| Distribution | \$ 5,282 | \$ 6,246 | \$ 7,512 | \$ 8,638 | | |
| G & A Admin | \$ 6,838 | \$ 11,034 | \$ 14,447 | \$ 11,621 | | |
| G & A Finance | \$ 8,813 | \$ 14,048 | \$ 16,409 | \$ 15,983 | | |
| G & A Human Resources | \$ (4,974) | \$ 8,159 | \$ 12,577 | \$ (12,874) | | |
| G & A IS & T | \$ 26,476 | \$ 38,615 | \$ 37,288 | \$ 46,537 | | |
| G & A Legal | \$ 17,322 | \$ 37,561 | \$ 51,402 | \$ 37,524 | | |
| G & A Facilities | \$ 20,818 | \$ 36,467 | \$ 46,820 | \$ 45,972 | | |
| G & A Allocations | \$ 16,748 | \$ 33,434 | \$ 39,758 | \$ 37,833 | | |
| Operating Expenses | \$ 732,662 | \$ 1,131,903 | \$ 1,399,632 | \$ 1,342,228 | | |
| Operating Income | \$ 4,732,553 | \$ 5,033,178 | \$ 5,026,811 | \$ 5,137,254 | | |
| Operating Income % | 55.88% | 54.76% | 52.65% | 48.47% | | |
| Units | 0 | 0 | 0 | | | |

Apple Notes:

* Opex is allocated based on revenue mix.

Notes and Sources:

[1] APL-APPSTORE_08856866.xlsx.

Donald R. Cameron, et al. v. Apple Inc.**Schedule 5.6****Apple - Summary of LINE OF BUSINESS REPORT - SERVICES**

| (\$ millions) | FY 2018 | Through Q3 |
|---|-----------------|-------------------|
| Revenue - Media | \$6,795 | |
| Revenue - Software | \$12,577 | |
| Revenue - Means of Payment | \$47 | |
| Revenue - Gift Card Sales Adjustments | -\$839 | |
| Revenue - Other Sales Adjustments | -\$567 | |
| Revenue - Other | \$0 | |
| Total Revenue | <u>\$18,012</u> | |
| Standard Cost - Media | \$4,848 | |
| Standard Cost - Software | \$0 | |
| Standard Cost - Means of Payment | \$0 | |
| Standard Cost - Gift Card Sales Adjustments | \$73 | |
| Standard Cost - Other Sales Adjustments | \$7 | |
| Standard Cost - Other | \$0 | |
| Total Standard Cost | <u>\$4,929</u> | |
| Standard Margin | \$13,084 | |
| % of Revenue | 72.64% | |
| OCOGS - HC Related | \$264 | |
| OCOGS - Variable | \$0 | |
| OCOGS - Programs | \$353 | |
| OCOGS - Fixed | \$577 | |
| OCOGS - Other OCOGS | \$1 | |
| OCOGS - Royalties | \$20 | |
| OCOGS - Chargebacks | \$132 | |
| Total OCOGS | <u>\$1,347</u> | |
| Gross Margin | \$11,737 | |
| % of Revenue | 65.16% | |
| OPEX - HC Related | \$749 | |
| OPEX - Variable | \$826 | |
| OPEX - Programs | \$368 | |
| OPEX - Fixed | \$78 | |
| Total OPEX | <u>\$2,020</u> | |
| Total Contribution Margin | \$9,716 | |
| % of Revenue | 53.94% | |

Notes and Sources:

[1] Schedule 5.6.1.

Donald R. Cameron, et al. v. Apple Inc.
Schedule 5.6.1
Apple Inc. ITUNES WW P&L

| (\$ thousands) | FY 2018 | | | | FY 2019 | FY 2020 |
|---|--------------------|--------------------|--------------------|--------------------|---------|---------|
| | Q1 | Q2 | Q3 | Q4 | | |
| Revenue - Media | \$1,662,390 | \$1,735,842 | \$1,692,530 | \$1,703,840 | | |
| Revenue - Software | \$2,852,341 | \$3,289,484 | \$3,111,189 | \$3,323,989 | | |
| Revenue - Means of Payment | \$8,967 | \$12,097 | \$9,202 | \$16,311 | | |
| Revenue - Gift Card Sales Adjustments | (\$231,197) | (\$201,495) | (\$196,265) | (\$210,078) | | |
| Revenue - Other Sales Adjustments | (\$127,319) | (\$154,842) | (\$154,346) | (\$130,231) | | |
| Revenue - Other | - | - | - | - | | |
| Total Revenue | <u>\$4,165,182</u> | <u>\$4,681,086</u> | <u>\$4,462,310</u> | <u>\$4,703,831</u> | | |
| Standard Cost - Media | \$1,204,210 | \$1,249,389 | \$1,199,368 | \$1,195,466 | | |
| Standard Cost - Software | - | - | - | - | | |
| Standard Cost - Means of Payment | - | - | - | - | | |
| Standard Cost - Gift Card Sales Adjustments | \$30,127 | \$19,368 | \$14,440 | \$9,441 | | |
| Standard Cost - Other Sales Adjustments | (\$3,552) | (\$935) | (\$9,224) | \$20,717 | | |
| Standard Cost - Other | - | - | - | - | | |
| Total Standard Cost | <u>\$1,230,785</u> | <u>\$1,267,822</u> | <u>\$1,204,583</u> | <u>\$1,225,623</u> | | |
| Standard Margin | \$2,934,397 | \$3,413,264 | \$3,257,727 | \$3,478,208 | | |
| % of Revenue | 70% | 73% | 73% | 74% | | |
| OCOGS - HC Related | \$56,840 | \$60,506 | \$78,845 | \$68,224 | | |
| OCOGS - Variable | - | - | - | - | | |
| OCOGS - Programs | \$55,696 | \$50,326 | \$77,675 | \$169,376 | | |
| OCOGS - Fixed | \$172,104 | \$166,623 | \$152,499 | \$85,789 | | |
| OCOGS - Other OCOGS | (\$51) | \$340 | \$124 | \$566 | | |
| OCOGS - Royalties | \$4,649 | \$4,815 | \$4,735 | \$5,709 | | |
| OCOGS - Chargebacks | \$31,731 | \$24,937 | \$35,321 | \$39,549 | | |
| Total OCOGS | <u>\$320,969</u> | <u>\$307,546</u> | <u>\$349,199</u> | <u>\$369,212</u> | | |
| Gross Margin | \$2,613,428 | \$3,105,718 | \$2,908,528 | \$3,108,995 | | |
| % of Revenue | 63% | 66% | 65% | 66% | | |
| OPEX - HC Related | 183,007 | 191,299 | 184,631 | 190,030 | | |
| OPEX - Variable | 191,648 | 203,951 | 212,192 | 217,964 | | |
| OPEX - Programs | 81,900 | 77,359 | 93,229 | 115,082 | | |
| OPEX - Fixed | \$24,463 | \$19,625 | \$15,574 | \$18,420 | | |
| Total OPEX | <u>\$481,018</u> | <u>\$492,234</u> | <u>\$505,626</u> | <u>\$541,496</u> | | |
| Total Contribution Margin | \$2,132,410 | \$2,613,484 | \$2,402,902 | \$2,567,500 | | |
| % of Revenue | 51% | 56% | 54% | 55% | | |

Apple Notes:

*Media includes music, TV, movies, and books.

*Software includes OS & iOS apps.

*OCOGS includes content procurement, localization, encoding, facilities, bandwidth, content storage, and data center expenses.

*OPEX includes credit card fees, finance, selling, admin, engineering, marketing, and facilities expenses.

*iCloud financials are excluded.

Notes and Sources:

[1] APL-APPSTORE_09806205.xlsx.

Donald R. Cameron, et al. v. Apple Inc.
Schedule 6
Apple App Store Contribution Margin Percentage

| (\$ millions) | [2] FY 2015 | | |
|------------------------|----------------|----------------|----------------|
| Apple App Store | FY 2013 | FY 2014 | (Fcst.) |
| Net Revenue | \$2,373 | \$3,629 | \$4,912 |
| COGS | \$50 | \$83 | \$38 |
| Standard Margin | \$2,322 | \$3,546 | \$4,874 |
| OCOGS | \$168 | \$269 | \$413 |
| Gross Margin | \$2,154 | \$3,277 | \$4,461 |
| OPEX w/SBC | \$361 | \$515 | \$908 |
| Contribution Margin | \$1,793 | \$2,762 | \$3,554 |
| Contribution Margin % | 75.6% | 76.1% | 72.3% |

Notes and Sources:

- [1] APL-APPSTORE_04685286.xlsx. Mr. Rollins testified that "Apps" refers to the App Store. See Deposition of Mark Rollins, February 11, 2021, p. 257.
- [2] Reported figures for fiscal year 2015 appear to be forecasts or projections, as the document was distributed to executives on October 31, 2014 (email to Eddy Cue (Senior Vice President, Internet Software & Services) in response to a request by Luca Maestri (Chief Financial Officer). See APL-APPSTORE_04685284 (Cover email for distributed financial information (APL-APPSTORE_04685286.xlsx))).
- [3] The cover email (APL-APPSTORE_04685284) discusses costs being included in this contribution margin, including stock based compensation, marketing, chargeback, headcount, and acquisition costs. Further, the email indicates the P&Ls are "fully burdened."

Donald R. Cameron, et al. v. Apple Inc.**Schedule 7****Operating Margins of Marketplace Companies, 2013-2020**

| | FY 2013 | FY 2014 | FY 2015 | FY 2016 | FY 2017 | FY 2018 | FY 2019 | FY 2020 |
|---|---------|---------|---------|---------|---------|---------|---------|---------|
| [2] eBay | 29.7% | 28.2% | 25.6% | 25.0% | 22.8% | 20.3% | 21.5% | 26.4% |
| [2] Etsy | 0.6% | -3.2% | -0.7% | 4.8% | 2.7% | 12.4% | 10.8% | 24.6% |
| [2] Rakuten (Internet Services segment) | 15.0% | 18.3% | 11.4% | 5.4% | 13.3% | 18.0% | 13.8% | 6.3% |
| [2] MercadoLibre | 32.5% | 21.6% | 21.4% | 21.4% | 4.6% | -4.8% | -6.7% | 3.2% |
| [3] Alibaba (Core Commerce segment) | N/A | N/A | 49.2% | 47.4% | 50.5% | 44.3% | 29.9% | 29.4% |

Notes and Sources:

[1] Schedule 7.1 to Schedule 7.5.

[2] Calendar year end financials.

[3] Alibaba's fiscal year ends March 31. Information presented based on Alibaba's reporting for the associated fiscal year. For example, 2020 information would cover the period 4/1/2019 through 3/31/2020.

Donald R. Cameron, et al. v. Apple Inc.**Schedule 7.1****eBay, Inc. Operating Margin, 2013-2020**

| (\$ millions) | [1] FY 2013 | [2] FY 2014 | [3] FY 2015 | [4] FY 2016 | [5] FY 2017 | [6,7] FY 2018 | [6,7] FY 2019 | [6,7] FY 2020 |
|--|----------------|----------------|----------------|----------------|----------------|------------------|------------------|------------------|
| | | | | | | | | |
| Revenue | \$8,257 | \$8,790 | \$8,592 | \$9,298 | \$9,927 | \$8,650 | \$8,636 | \$10,271 |
| Costs and expenses | (\$1,492) | (\$1,663) | (\$1,771) | (\$2,004) | (\$2,221) | (\$2,023) | (\$2,136) | (\$2,473) |
| Gross profit | \$6,765 | \$7,127 | \$6,821 | \$7,294 | \$7,706 | \$6,627 | \$6,500 | \$7,798 |
| Operating expenses: | | | | | | | | |
| Sales and marketing | (\$2,144) | (\$2,442) | (\$2,267) | (\$2,691) | (\$2,878) | (\$2,576) | (\$2,368) | (\$2,639) |
| Product development | (\$915) | (\$983) | (\$923) | (\$1,114) | (\$1,224) | (\$1,051) | (\$976) | (\$1,087) |
| General and administrative | (\$880) | (\$889) | (\$1,122) | (\$899) | (\$1,030) | (\$979) | (\$1,005) | (\$1,003) |
| Provision for transaction losses | (\$236) | (\$262) | (\$271) | (\$231) | (\$272) | (\$247) | (\$262) | (\$331) |
| Amortization of acquired intangible assets | (\$136) | (\$75) | (\$41) | (\$34) | (\$38) | (\$22) | (\$28) | (\$27) |
| Total operating expenses | (\$4,311) | (\$4,651) | (\$4,624) | (\$4,969) | (\$5,442) | (\$4,875) | (\$4,639) | (\$5,087) |
| Income from operations | \$2,454 | \$2,476 | \$2,197 | \$2,325 | \$2,264 | \$1,752 | \$1,861 | \$2,711 |
| Operating margin % | 29.7% | 28.2% | 25.6% | 25.0% | 22.8% | 20.3% | 21.5% | 26.4% |

Notes and Sources:

- [1] eBay Form 10-K (for period ended December 31, 2015), p. F-3.
- [2] eBay Form 10-K (for period ended December 31, 2016), p. F-3.
- [3] eBay Form 10-K (for period ended December 31, 2017), p. F-3.
- [4] eBay Form 10-K (for period ended December 31, 2018), p. F-3.
- [5] eBay Form 10-K (for period ended December 31, 2019), p. F-4.
- [6] eBay Form 10-K (for period ended December 31, 2020), p. 62.
- [7] Data for 2018, 2019 and 2020 excludes StubHub and Classifieds businesses, sold in 2020 and shown as income from discontinued operations. Revenue and operating expenses were restated for 2018 and 2019 in 2020.

Donald R. Cameron, et al. v. Apple Inc.

Schedule 7.2

Etsy, Inc. Operating Margin, 2013-2020

| (\$ thousands) | [1] FY 2013 | [2] FY 2014 | [3] FY 2015 | [4] FY 2016 | [5] FY 2017 | [6] FY 2018 | [6] FY 2019 | [6] FY 2020 |
|-------------------------------|----------------|----------------|----------------|----------------|----------------|----------------|----------------|----------------|
| | | | | | | | | |
| Revenue | \$125,022 | \$195,591 | \$273,499 | \$364,967 | \$441,231 | \$603,693 | \$818,379 | \$1,725,625 |
| Cost of revenue | (\$47,779) | (\$73,633) | (\$96,979) | (\$123,328) | (\$150,986) | (\$190,762) | (\$271,036) | (\$464,745) |
| Gross profit | \$77,243 | \$121,958 | \$176,520 | \$241,639 | \$290,245 | \$412,931 | \$547,343 | \$1,260,880 |
| Operating expenses: | | | | | | | | |
| Marketing | (\$17,850) | (\$39,655) | (\$66,771) | (\$82,248) | (\$109,085) | (\$158,013) | (\$215,570) | (\$500,756) |
| Product development | (\$27,548) | (\$36,634) | (\$42,694) | (\$55,083) | (\$74,616) | (\$97,249) | (\$121,878) | (\$180,080) |
| General and administrative | (\$31,112) | (\$51,920) | (\$68,939) | (\$86,180) | (\$91,486) | (\$82,883) | (\$121,134) | (\$156,035) |
| Asset impairment charges | \$0 | \$0 | \$0 | (\$551) | (\$3,162) | \$0 | \$0 | \$0 |
| Total operating expenses | (\$76,510) | (\$128,209) | (\$178,404) | (\$224,062) | (\$278,349) | (\$338,145) | (\$458,582) | (\$836,871) |
| Income (loss) from operations | \$733 | (\$6,251) | (\$1,884) | \$17,577 | \$11,896 | \$74,786 | \$88,761 | \$424,009 |
| Operating margin % | 0.6% | -3.2% | -0.7% | 4.8% | 2.7% | 12.4% | 10.8% | 24.6% |

Notes and Sources:

- [1] Etsy Form 10-K (for period ended December 31, 2015), p. 70.
- [2] Etsy Form 10-K (for period ended December 31, 2016), p. 68.
- [3] Etsy Form 10-K (for period ended December 31, 2017), p. 77.
- [4] Etsy Form 10-K (for period ended December 31, 2018), p. 94.
- [5] Etsy Form 10-K (for period ended December 31, 2019), p. 96.
- [6] Etsy Form 10-K (for period ended December 31, 2020), p. 100.

Donald R. Cameron, et al. v. Apple Inc.
Schedule 7.3
Rakuten, Inc. Operating Margin, 2013-2020

| (JPY millions) | [2] FY 2013 | [3, 4] FY 2014 | [5] FY 2015 | [6] FY 2016 | [7] FY 2017 | [8] FY 2018 | [9] FY 2019 | [9] FY 2020 |
|--|----------------|-------------------|----------------|----------------|----------------|----------------|----------------|----------------|
| [10] Revenue - Internet Services segment | 315,228 | 362,751 | 492,836 | 560,555 | 680,306 | 676,677 | 743,266 | 820,115 |
| Segment profit - Internet Services | 47,455 | 68,437 | 90,909 | 55,568 | 100,762 | 107,707 | 107,211 | 40,114 |
| Unadjusted operating margin % | 15.1% | 18.9% | 18.4% | 9.9% | 14.8% | 15.9% | 14.4% | 4.9% |
| [11] Other item adjustments (Rakuten total company): | | | | | | | | |
| Intercompany transaction revenue | (33,900) | (43,151) | (54,417) | (74,705) | (68,993) | (89,548) | (134,760) | (167,914) |
| Intercompany transaction profit | (5,147) | (32) | (2,655) | (1,540) | (6,563) | (808) | (4,864) | 2,904 |
| Amortization of intangible assets | - | (6,327) | (8,322) | (7,789) | (7,758) | (10,982) | (8,764) | (9,502) |
| Stock based compensation | - | (2,315) | (6,088) | (7,344) | (7,509) | (7,833) | (10,137) | (10,612) |
| One-off items | - | (3,053) | (43,054) | (25,970) | (2,399) | 28,110 | (3,483) | 28,932 |
| Expense allocation basis: | | | | | | | | |
| Segment revenue including intercompany | 315,228 | 362,751 | 492,836 | 560,555 | 680,306 | 676,677 | 743,266 | 820,115 |
| Total revenue including intercompany | 552,468 | 641,716 | 767,972 | 856,621 | 1,013,467 | 1,191,028 | 1,398,692 | 1,623,452 |
| Segment as % of total revenue | 57.1% | 56.5% | 64.2% | 65.4% | 67.1% | 56.8% | 53.1% | 50.5% |
| [12] Adjusted revenue (allocation): | | | | | | | | |
| Revenue - Internet Services segment | 315,228 | 362,751 | 492,836 | 560,555 | 680,306 | 676,677 | 743,266 | 820,115 |
| Intercompany transaction revenue | (19,343) | (24,393) | (34,921) | (48,885) | (46,313) | (50,876) | (71,612) | (84,825) |
| Adjusted revenue - Internet Services segment | 295,885 | 338,358 | 457,915 | 511,670 | 633,993 | 625,801 | 671,654 | 735,290 |
| [12] Other adjustments (allocation): | | | | | | | | |
| Segment profit - Internet Services | 47,455 | 68,437 | 90,909 | 55,568 | 100,762 | 107,707 | 107,211 | 40,114 |
| Intercompany transaction profit | (2,937) | (18) | (1,704) | (1,008) | (4,406) | (459) | (2,585) | 1,467 |
| Amortization of intangible assets | - | (3,577) | (5,341) | (5,097) | (5,208) | (6,239) | (4,657) | (4,800) |
| Stock based compensation | - | (1,309) | (3,907) | (4,806) | (5,041) | (4,450) | (5,387) | (5,361) |
| One-off items | - | (1,726) | (27,629) | (16,994) | (1,610) | 15,971 | (1,851) | 14,616 |
| Adjusted segment profit - Internet Services | 44,518 | 61,808 | 52,328 | 27,663 | 84,498 | 112,529 | 92,731 | 46,036 |
| Adjusted operating margin % | 15.0% | 18.3% | 11.4% | 5.4% | 13.3% | 18.0% | 13.8% | 6.3% |

Notes and Sources:

- [1] Statements prepared in accordance with International Financial Reporting Standards.
- [2] Rakuten Financial Disclosure Document (for fiscal year ended December 31, 2013, dated February 14, 2014), pp. 1, 34.
- [3] Rakuten Financial Disclosure Document (for fiscal year ended December 31, 2014, dated February 12, 2015), pp. 1, 32.
- [4] Rakuten Financial Disclosure Document (for fiscal year ended December 31, 2015, dated February 12, 2016), pp. 1, 35. Segment profit for 2014 was restated in 2015.
- [5] Rakuten Financial Disclosure Document (for fiscal year ended December 31, 2016, dated February 13, 2017), pp. 1, 35. Segment revenue and profit for 2015 was restated in 2016.
- [6] Rakuten Financial Disclosure Document (for fiscal year ended December 31, 2017, dated February 13, 2018), pp. 19-20. Restatement of intercompany transactions and profit for 2016 in 2017.
- [7] Rakuten Financial Disclosure Document (for fiscal year ended December 31, 2018, dated February 12, 2019), pp. 21-22.
- [8] Rakuten Financial Disclosure Document (for fiscal year ended December 31, 2019), pp. 25-26. Segment revenue and profit for 2018 was restated in 2019.
- [9] Rakuten Financial Disclosure Document (for fiscal year ended December 31, 2020, dated February 12, 2021), pp. 21-22. Segment revenue and profit for 2019 was restated in 2020.
- [10] Segment revenue includes intercompany transactions; no detail by segment provided.
- [11] Adjustments shown in the Financial Disclosure Documents.
- [12] Allocation based on the percentage of total company revenue that the Internet Services segment represents.

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Schedule 7.4

MercadoLibre, Inc. Operating Margin, 2013-2020

| | [1] (\$ thousands) FY 2013 | [2] FY 2014 | [3] FY 2015 | [4] FY 2016 | [5] FY 2017 | [6] FY 2018 | [6] FY 2019 | [6] FY 2020 |
|--|---|-----------------------|-----------------------|-----------------------|-----------------------|-----------------------|-----------------------|-----------------------|
| Revenues | \$472,595 | \$556,536 | \$651,790 | \$844,396 | \$1,216,542 | \$1,439,653 | \$2,296,314 | \$3,973,465 |
| Costs of net revenues | (\$130,077) | (\$158,978) | (\$214,994) | (\$307,538) | (\$496,942) | (\$742,645) | (\$1,194,191) | (\$2,264,255) |
| Gross profit | \$342,518 | \$397,558 | \$436,796 | \$536,858 | \$719,600 | \$697,008 | \$1,102,123 | \$1,709,210 |
| Operating expenses: | | | | | | | | |
| Product and technology development | (\$40,888) | (\$53,600) | (\$76,423) | (\$98,479) | (\$127,160) | (\$146,273) | (\$223,807) | (\$352,474) |
| Sales and marketing | (\$90,484) | (\$111,627) | (\$128,609) | (\$156,296) | (\$325,375) | (\$482,447) | (\$834,022) | (\$902,554) |
| General and administrative | (\$57,607) | (\$62,364) | (\$76,342) | (\$87,310) | (\$122,194) | (\$137,770) | (\$197,455) | (\$326,490) |
| Impairment of long-lived assets | \$0 | (\$49,496) | (\$16,226) | (\$13,717) | (\$2,837) | \$0 | \$0 | \$0 |
| [7] Loss on deconsolidation of Venezuelan subsidiaries | \$0 | \$0 | \$0 | \$0 | (\$85,761) | \$0 | \$0 | \$0 |
| Total operating expenses | (\$188,979) | (\$277,087) | (\$297,600) | (\$355,802) | (\$663,327) | (\$766,490) | (\$1,255,284) | (\$1,581,518) |
| Income (loss) from operations | \$153,539 | \$120,471 | \$139,196 | \$181,056 | \$56,273 | (\$69,482) | (\$153,161) | \$127,692 |
| Operating margin % | 32.5% | 21.6% | 21.4% | 21.4% | 4.6% | -4.8% | -6.7% | 3.2% |

Notes and Sources:

- [1] MercadoLibre Form 10-K (for period ended December 31, 2015), Item 15(a) pp. 4, 13.
- [2] MercadoLibre Form 10-K (for period ended December 31, 2016), Item 15(a) p. 4.
- [3] MercadoLibre Form 10-K (for period ended December 31, 2017), Item 15(a), pp. 5, 14.
- [4] MercadoLibre Form 10-K (for period ended December 31, 2018), Item 15(a), p. 4.
- [5] MercadoLibre Form 10-KA (for period ended December 31, 2019), Item 15(a), p. 6.
- [6] MercadoLibre Form 10-K (for period ended December 31, 2020), Item 15(a), p. 5.
- [7] Described in Note 2 as an impairment, MercadoLibre Form 10-KA (for period ended December 31, 2019), p. 11.

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| | (RMB millions) | [3] | [4] | [5] | [6] | [6] | [6] |
|-----|---|-----------------------------------|---------|---------|---------|----------|----------|
| | | For fiscal year ended March 31st, | | | | | |
| | | 2015 | 2016 | 2017 | 2018 | 2019 | 2020 |
| | Revenue - Core Commerce segment | 69,536 | 92,335 | 133,880 | 214,020 | 323,400 | 436,104 |
| [2] | Segment profit - Core Commerce | 40,194 | 51,153 | 74,180 | 102,743 | 109,312 | 138,631 |
| | Unadjusted operating margin % | 57.80% | 55.40% | 55.41% | 48.01% | 33.80% | 31.79% |
| | Allocation of unallocated expenses: | | | | | | |
| [7] | Pro-rated allocation based on % revenue | (6,017) | (7,411) | (6,567) | (7,956) | (12,769) | (10,521) |
| | Adjusted Core Commerce income | 34,177 | 43,742 | 67,613 | 94,787 | 96,543 | 128,110 |
| | Adjusted operating margin % | 49.2% | 47.4% | 50.5% | 44.3% | 29.9% | 29.4% |
| | Expense allocation basis: | | | | | | |
| | Segment revenue | 69,536 | 92,335 | 133,880 | 214,020 | 323,400 | 436,104 |
| | Total revenue | 76,204 | 101,143 | 158,273 | 250,266 | 376,844 | 509,711 |
| | Segment as % of total revenue | 91.25% | 91.29% | 84.59% | 85.52% | 85.82% | 85.56% |
| [8] | Unallocated expenses | (6,594) | (8,118) | (7,764) | (9,303) | (14,879) | (12,297) |
| [7] | Allocation to Core Commerce segment | (6,017) | (7,411) | (6,567) | (7,956) | (12,769) | (10,521) |

Notes and Sources:

- [1] Reporting of results in 4 reporting segments began in 2017; results through 2015 were restated. Previously Alibaba reported as a single operating segment. Alibaba Form 20-F (for period ended March 31, 2016), p. F-19; Alibaba Form 20-F (for period ended March 31, 2017), p. 117.
- [2] Segment profit includes allocations for amortization of intangibles and share-based compensation.
- [3] Alibaba Form 20-F (for period ended March 31, 2017), pp. 134-135, F-97.
- [4] Alibaba Form 20-F (for period ended March 31, 2018), pp. 138-139.
- [5] Alibaba Form 20-F (for period ended March 31, 2019), pp. 136-137.
- [6] Alibaba Form 6-K (for period ended March 31, 2020), pp. 2, 18-20.
- [7] Allocation based on the percentage of total company revenue that the Core Commerce segment represents.
- [8] Corporate administrative costs and other miscellaneous items not allocated to segments, Alibaba Form 6-K (for period ended March 31, 2020), pp. 18-19.